



**INVESTIGATION INTO THE
FAILURE OF HORACE DALLEY,
A FORMER MEMBER OF
PARLIAMENT TO FILE A
STATUTORY DECLARATION
WITH THE COMMISSION**

**INTEGRITY COMMISSION
AUGUST 2022**



This Publication until tabled in Parliament shall be confidential.

Section 55 and 56 of the Integrity Commission Act states:

"(4) Anything said or information supplied or any document or thing produced by any person for the purpose or in the course of any investigation by or proceedings before the Commission under this Act, shall be absolutely privileged in the same manner as if the investigation or proceedings were proceedings in a court of law.

(5) For the purposes of the Defamation Act, any report made by the Commission under this Act and any fair and accurate comment thereon shall be deemed to be privileged.

56.—(1) Subject to section 42(3)(b), every person having an official duty under this Act, or being employed or otherwise concerned in the administration of this Act (hereinafter called a concerned person) shall regard and deal with as secret and confidential, all information, Statutory Declarations, government contracts, prescribed licences and all other matters relating to any matter before the Commission, except that no disclosure made by the Commission or other concerned person in the proceedings for an offence under this Act or under the Perjury Act, by virtue of section 17(2) of that Act, shall be deemed inconsistent with any duty imposed by this subsection.

(2) The obligation as to secrecy and confidentiality imposed by this section, in relation to any documents, or information obtained under this Act continues to apply to a person despite the person having ceased to have an official duty, be employed or otherwise concerned in the administration of this Act.

(3) Every concerned person who is required under subsection (1) to deal with matters specified therein as secret and confidential who at any time communicates or attempts to communicate any such information, declaration, letter and other document or thing referred to in subsection (1) disclosed to his in the execution of any of the provisions of this Act to any person—

(a) other than a person to whom he is authorized under this Act to communicate it; or

(b) otherwise than for the purpose of this Act,

commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

Integrity Commission
1st Floor, PIOJ Building
16 Oxford Road
P.O. BOX 540
Kingston 5
Telephone: 876-929-6460/876-929-8560/876-929-6466
Fax: 876-929-7335

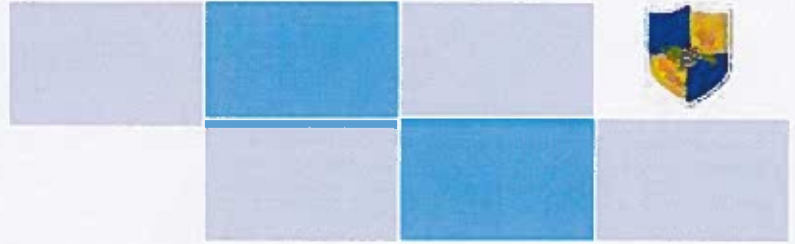
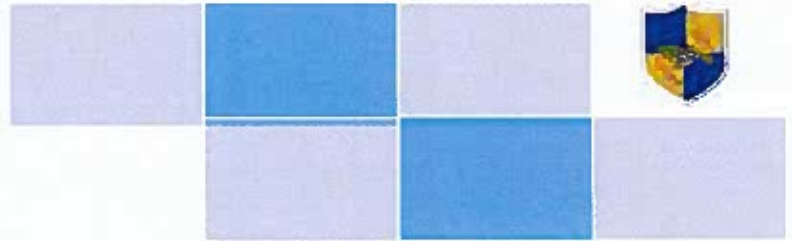


Table of Contents

1.	Summary of Investigation and Findings	4
2.	Chapter 1 – Background.....	5
3.	Chapter 2 – Terms of Reference	7
4.	Chapter 3 – The Law, Evidence and Discussion of Findings	8
4.1	The Law	8
4.2	The Evidence	10
4.3	Discussion of Findings	12
4.4	Conclusion	13
4.5	Recommendations	13
APPENDICES		15
Appendix 1: Sections 2, 39, 41(1), 41(4) & 43(1) of the Integrity Commission Act.....		16



1. Summary of Investigation and Findings

- 1.1 This investigation by the Director of Investigation concerns the allegation that **Mr. Horace Dalley**, a former member of Parliament failed to file with the Integrity Commission (hereinafter the Commission), Statutory Declaration for the period ending September 3, 2021.
- 1.2 It was found that Mr. Horace Dalley was required to file a statutory declaration with the Commission at the material time and having failed to do so committed an offence under Section 39 of the Integrity Commission Act (hereinafter ICA).



2. Chapter 1 – Background

2.1 Why was this investigation initiated?

2.1.1 This investigation was initiated based on a referral by the Director of Information and Complaints. The complaint alleged that Mr. Dalley is in breach of the **ICA** by virtue of his failure to file his Statutory Declaration with the Commission for the period ending September 3, 2021.

2.2 Jurisdiction and decision to investigate

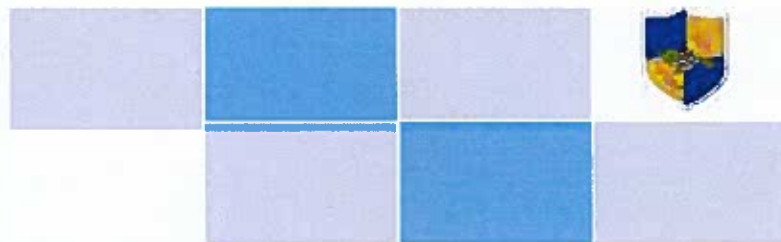
2.2.1 Section 33 of the ICA gives the Director of Investigation the authority to investigate non-compliance with the Act by parliamentarians.

2.3 The Investigation

2.3.1 During the investigation, Officers of the Investigation Division under the authority of the Director of Investigation pursued the following lines of enquiry/actions:

a) obtained information and witness statements from the responsible officers at:

- (i) Houses of Parliament;
- (ii) Tax Administration Jamaica; and

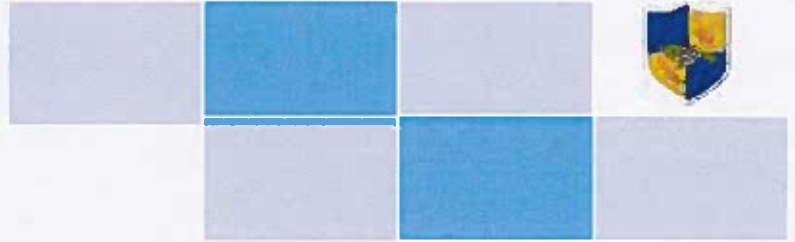


(iii) Information and Complaints Division of the Integrity Commission.

b) reviewed the information and statements collected and prepared the case file and report.

2.4 Who is the concerned parliamentarian pertinent to this Investigation?

2.2.1 Mr. Horace Dalley was the concerned parliamentarian considered pertinent to the investigation.



3. Chapter 2 – Terms of Reference

- 3.1 The Director of Investigation sought to establish the following in respect of the declarant, Mr. Dalley, whether:
- a) Mr. Dalley is a Parliamentarian as set out under **Section 2 of the Integrity Commission Act**;
 - b) He failed to file his required Statutory Declaration as prescribed under **Section 39, 41(1) and 41(4) of the Integrity Commission Act**;
 - c) the concerned parliamentarian was notified of his failure and warned of consequences;
 - d) His failure to file his required Statutory Declaration constitutes an offence under the Act;
 - e) the concerned parliamentarian has a lawful justification or excuse for his failure to file;
 - f) Recommendations ought to be made to the Director of Corruption Prosecution; and
 - g) Recommendations ought to be made in respect of any act of corruption and/or anti-corruption initiatives.



4. Chapter 3 – The Law, Evidence and Discussion of Findings

4.1 The Law

4.1.1 The overarching objective of the Commission's investigation was to determine whether there is merit in the allegation that Mr. Dalley failed to file his Statutory Declaration as outlined under **Section 2, 39, 41(1), 41(4) and 43(1) of the ICA**, which states:

4.1.2 **Section 2 of the ICA**

Section 2 of the act defines a parliamentarian as a member of the House of Representatives or member of the Senate.

4.1.3 **Section 39 of the ICA**

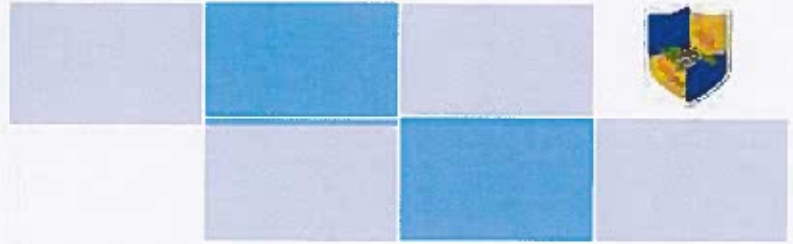
This Section require parliamentarians to submit statutory declarations to the Director of Information and Complaints outlining their assets, liabilities and income.

4.1.4 **Section 41(1) of the ICA**

Section 41(1) sets out the declaration periods and due dates for current and former parliamentarians to submit their statutory declarations.

4.1.5 **Section 41(4) of the ICA**

Under Section 41(4) declarants have three (3) months from the date of the declaration to file their declarations.



4.1.6 **Section 43(1) of the ICA:**

Under Section 43(1) of the ICA a person who is required to submit a statutory declaration and who fails to do so, without reasonable cause commits an offence.

See Sections 2, 39, 41(1), 41(4) and 43(1) of the Integrity Commission Act at appendix 1.



4.2 The Evidence

4.2.1 Is Mr. Dalley a parliamentarian as defined under Section 2 of the ICA?

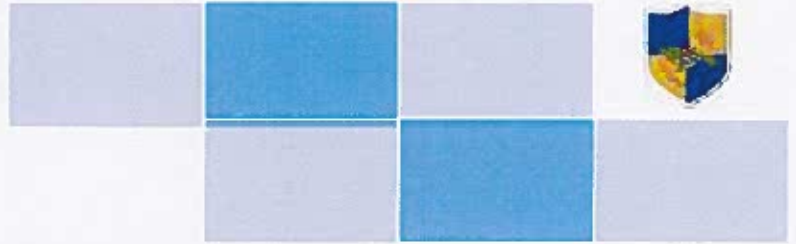
4.2.1.1 Mr. Dalley was elected as Member of Parliament for Clarendon, Northern on February 25, 2016. This was established in the evidence provided by the Acting Director, Human Resource Management and Development at the Houses of Parliament. Mr. Dalley therefore falls within the definition of a "parliamentarian" under **Section 2 of the Integrity Commission Act**.

4.2.2 Did Mr. Dalley fail to file his Statutory Declaration as required under Sections 39, 41(1) and 41(4) of the ICA?

4.2.2.1 The procedure for identifying a parliamentarian (a member of the House of Representatives or a member of the Senate) who has not filed a statutory declaration begins with the Reporting and Compliance Officer at the information and Complaints Division of the Integrity Commission compiling a list of current and former parliamentarians.

4.2.2.2 When statutory declarations are filed (by mail, in-person or by bearer), they are then processed by the Reporting and Compliance Officer who registers the relevant parliamentarian on the Commission's Electronic Declaration System (eDS) and an electronic receipt is subsequently emailed to the parliamentarian.

4.2.2.3 In determining delinquency, the Reporting and Compliance Officer compares the list of parliamentarians (which may include former parliamentarians) to the eDS and those who were not registered in the eDS



are deemed to be delinquent in respect of the filing of their statutory declarations. On January 3, 2022 Mr. Horace Dalley was identified as delinquent for the period as outlined in table 1 below.

Table 1: Outstanding Declaration

Declaration Period	Declaration Due	Declaration Filed	Outstanding Declaration
September 3, 2021	December 31, 2021	Nil	September 3, 2021

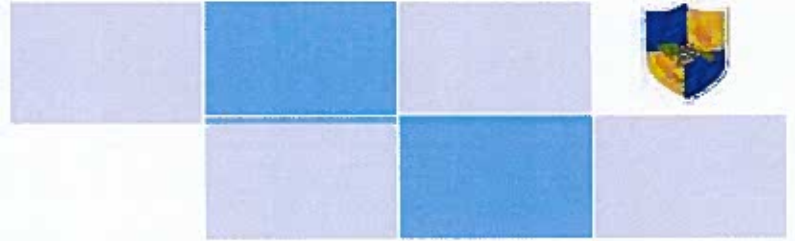
4.2.3 Was the concerned parliamentarian notified of his failure to file the required statutory declaration and warned of consequential penalties?

4.2.3.1 The evidence of the Reporting and Compliance Officer is that a Notice pursuant to Section 41(6) of the Integrity Commission Act was served on Mr. Dalley on February 11, 2022. He was given 30 days to file the required statutory declaration.

4.2.4 Does Mr. Dalley's failure to file the required Statutory Declaration constitute an offence under the Act?

4.2.4.1 The failure to file a statutory declaration is an offence under **Section 43(1)(a) of the ICA**, which states:

"A person who –



(a) Fails, without reasonable cause, to submit a statutory declaration which he is required to submit in accordance with the provisions of this Part;

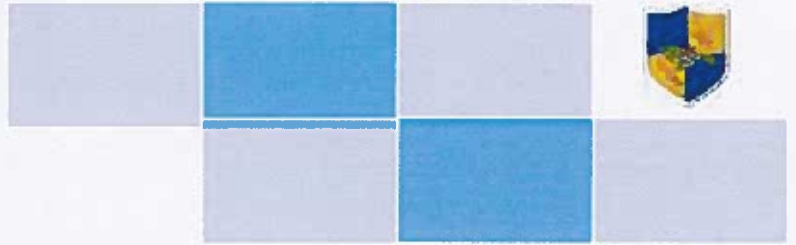
commits an offence, ..." (See full Section at appendix 2)

4.2.5 Did the concerned parliamentarian have a lawful explanation or excuse for his failure to file the statutory declaration?

4.2.5.1 The evidence of the Reporting and Compliance Officer also indicated that as at March 18, 2022 no related correspondence was received with respect to Mr. Dalley's obligation to file his statutory declaration.

4.3 Discussion of Findings

4.3.1 During the investigation into the allegations against Mr. Dalley, the Director of Investigation followed all reasonable lines of enquiry, gathered evidential material and collected/recorded the statements of witnesses deemed necessary. Upon analyzing the evidential materials collected, the Director of Investigation is satisfied that there is evidence to support the allegation that Mr. Dalley failed to file his required Statutory Declaration with the Commission for the period ending September 3, 2021.



4.4 Conclusion

4.4.1 Based on the foregoing, the Director of Investigation finds reasonable grounds to conclude that the following have been established in respect of Mr. Dalley:

- a) Mr. Dalley is a parliamentarian within the meaning of Section 2 of the **ICA**;
- b) He failed to file the Statutory Declaration for the period ending September 3, 2021;
- c) He was notified of his failure and warned of the consequences;
- d) His failure to file constitutes an offence under **Section 43(1)(a) of the ICA**; and
- e) He has provided no lawful explanation for his failure to file the referenced Statutory Declaration.

4.5 Recommendations

- 4.5.1 The Director of Investigation recommends that this report be referred to the Director of Corruption Prosecution for consideration.
- 4.5.2 The Director of Investigation recommends that the Honourable Speaker of the House of Representatives should, as far as she's able, use her good office to assist in ensuring compliance by Members of the House of



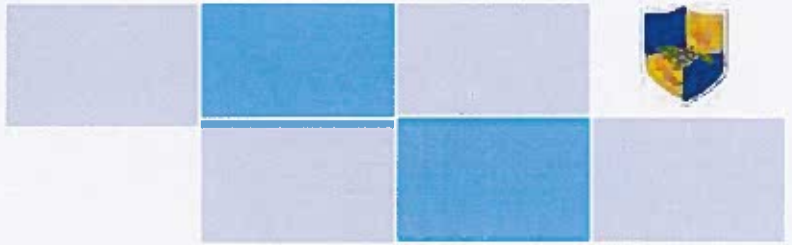
Representatives with the requirements of the **Integrity Commission Act** generally and more particularly with the requirement for the said Members to file their statutory declarations with the Commission pursuant to **Section 39 of the Integrity Commission Act.**

A handwritten signature in blue ink, appearing to read "K. Stephenson", written over a horizontal line.

Kevon A. Stephenson, JP
Director of Investigation

August 17, 2022

Date



APPENDICES



Appendix 1: Sections 2, 39, 41(1), 41(4) & 43(1) of the Integrity Commission Act

Section 2 of the ICA:

"...parliamentarian" means a member of the House of Representatives or a member of the Senate;

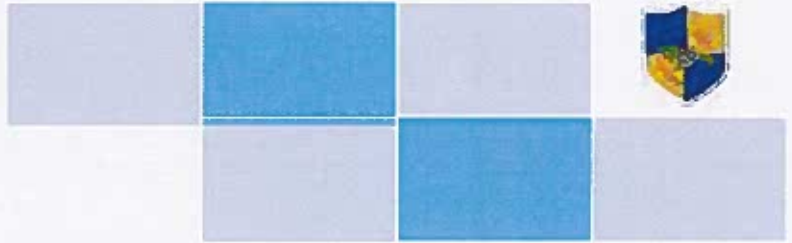
"public body" means-

- (a) a Ministry, department or agency of Government;*
- (b) a Municipality or Municipal Corporation;*
- (c) a statutory body or authority;*
- (d) an entity the governing body of which is appointed by a Minister;*
- (e) a company registered under the Companies Act, being a company in which the Government or an agency of Government holds at least fifty percent of the voting shares of the company;*

"public function" means any activity performed a single time or continually, whether or not payment is received therefor, which is carried out by-

- (a) a parliamentarian; or*
- (b) a person for, or on behalf of, or under the direction of a public body;*

"parliamentarian" means-



- (a) *any person holding an executive, an administrative or a judicial office, or a parliamentarian, whether appointed or elected, whether permanent or temporary, or whether paid or unpaid;*

any other person who is employed to a public body; and any member of the Security Forces;"

Section 39 of the ICA:

"39.-(1) Subject to the provisions of this Act, every person who, on or after the appointed day, is a parliamentarian or parliamentarian, shall submit to the Director of Information and Complaints, a statutory declaration of his assets and liabilities and his income in the form set out in the Third Schedule.

(2) Subsection (1) shall not apply to a parliamentarian who is in receipt of total annual emoluments of less than three million five"

Section 41(1) of the ICA:

"41.-(1) Subject to subsection (2), a statutory declaration required to be submitted pursuant to this Part shall be made-

(a) in the case of a person elected or appointed as a parliamentarian, as at the date of such election or appointment, and thereafter-

(i) where the election or appointment was at any time after the 30th day of June in any year, as at the 31st day of December in the year next following, and thereafter as at the 31st day of December in each year during any part of which he remains a parliamentarian; or



(ii) *in any case where the election or appointment is at any time in a calendar year other than that referred to in paragraph (i), as at the 31st day of December in that year and thereafter as at the 31st day of December in each year during any part of which he remains a parliamentarian;*

(iii) *as at the end of twelve months from the date on which he ceases to be a parliamentarian;*

(b) *in the case of-*

(i) *a person who on the appointed day is a public official to whom section 39 applies, as at the date of appointment of the person as a public official; or*

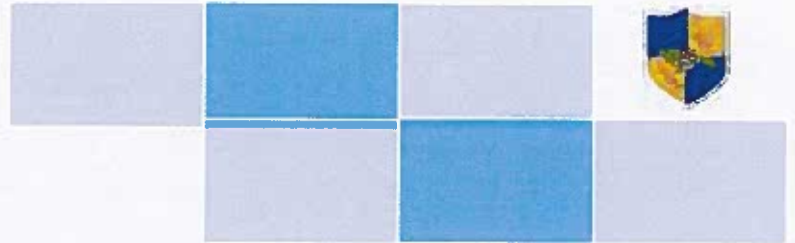
(ii) *a public official whose emoluments become equivalent to, or in excess of the amount prescribed pursuant to section 39(2), as at the date on which the emoluments are so adjusted,*

and thereafter as at the 31st day of December in each year during any part of which he remains a public official, or at such intervals as the Commission may direct by notice published in the Gazette."

Section 41(4) of the ICA:

"(4) A statutory declaration required to be made as at a particular date shall be submitted to the Director of Information and Complaints on or before the last day of the third calendar month following that date."

Section 43(1) of the ICA:



"43.-(1) A person who-

- (a) fails, without reasonable cause, to submit a statutory declaration which he is required to submit in accordance with the provisions of this Part;
- (b) fails, without reasonable cause, to provide any information as the Director of Information and Complaints may require in accordance with the provisions of this Act; or
- (c) fails, without reasonable cause, to attend an inquiry being conducted by the Director of Investigation that he is required to attend in accordance with the provisions of this Act,

commits an offence, and is liable on summary conviction in a Parish Court to a fine not exceeding five hundred thousand dollars, or to a term of imprisonment not exceeding six months and the Court may make an order mandating the person to comply with the requirement in respect of which the offence was committed."

