STATEMENT BY FRED MITCHELL MP

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ON THE PRIME MINISTER’S COMMENTS RE CHERYL BETHEL DECISION

House of Assembly

Nassau

8th March 2011

*CHECK AGAINST DELIVERY*

I have taken a public interest as a Member of Parliament and a legal advocate in the case of Cheryl Grant Bethel and her fight to become Director of Public Prosecutions.  She has fought a good fight and I am advised and she assures me that she will continue to fight to maintain her good name in this country.

In a previous intervention on this matter, I made the point that it was remarkable that the political directorate did not see fit to settle this matter amicably with Mrs. Grant Bethel but instead forced her at the point of public embarrassment to move the courts to get justice.  Having now received a measure of justice, it appears that the Prime Minister by his injudicious comments since the decision of Senior Justice Jon Isaacs, is now seeking to compound the problem and reopen wounds.

I said before that when one looks at the  history of confrontations between public servants and  the government over the decades, on each occasion the government has lost the case and  they certainly lost the public relations battle in this instance; the government then went on to lose the general election. The Elizabeth Thompson case was the last of those that is cited in support of that proposition.   The Prime Minister is sadly ignoring the lessons of history.

Beyond that, the Prime Minister’s remarks may be defamatory and Mrs. Grant Bethel is presently having her lawyers examine those comments made at his press conference at the Lynden Pindling International Airport.  He made certain characterizations of Mrs. Grant Bethell which are inaccurate and which may be defamatory. While she has no quarrel with the press, it is incumbent upon all of us to guard ourselves from being co-conspirators in a concerted effort by the Government of The Bahamas to besmirch her reputation. Suffice it to say that Mrs. Grant Bethel asserts that at all times she spoke truthfully to the court.

The Court itself did not pronounce on the question of the Prime Minister’s alleged threat to Mrs. Grant Bethell which was deposed in her affidavit. The court simply struck those paragraphs out saying that they were not relevant to its decision. It did not pronounce on the truth or otherwise of it. The Prime Minister is therefore out of order on that matter.

What is even more remarkable are the assertions of the Prime Minister with regard to legal costs in this matter. Here are the facts on the issue of costs. The matter of costs has been reserved to the 18th March court hearing. Any comment then on costs could well be interpreted as an attempt by the executive to tell the court what to do. Mr. Ingraham is a lawyer and knows better. His government has counsel, presumably competent counsel and they will deal with the matter in due course.

There were two other matters in relation to costs and the issues relating to the parties to the action that have been mischaracterized by the Prime Minister. One is the question of whether or not the Attorney General was properly joined in the proceedings. The Judge thought that he was not. But Mrs. Grant Bethel’s Counsel would have been less than prudent not to join the Attorney General given the state of the law in the country where it was not certain whether the Judicial and Legal Services Commission had the capacity to be sued. That issue is now settled law.

 The issue of those costs remains a matter for the overall arguments on the 18th March hearing and are for the Judge to decide not the Prime Minister.

The other matter is that of whether the Attorney General ought to be sued in his personal capacity. That too was dealt with by separate  decisions and the overall cost issues will be dealt with on 18th March. That too is for the judge not for the Prime Minister.

A further point is that Mrs. Grant Bethell will continue her action against the Attorney General in a separate action by writ. It was not thrown out of court as the Prime Minister said.

The Prime Minister claims that Mrs.  Grant Bethell lost this matter because of the 11reliefs asked for; the court did not accede to the reliefs prayed. He attacked the press because they read the judgment and saw what the Court said about the conduct of the agencies under his government's direction and control.  In our eyes, in the view of the press, in everyone else’s eyes except the Prime Minister’s, Mrs. Grant Bethell won her case. No amount of shouting and stamping by the Prime Minister can change what the court said about the conduct of the Judicial and Legal Services Commission.

We all happen to think that the Prime Minister’s attack on the weekend was unseemly and we wish to say so in the public domain.  It was shameful. It was disgraceful.

The facts are the Judge agreed substantially with the arguments of Mrs. Grant Bethell's counsel but said that he was constrained in law to not put Mrs. Grant Bethell back into harm’s way by sending her back to the Attorney General's office.  In other words, he was making a decision in what he thought were her better interests to protect her from the executive’s attacks upon her.

Further, the Judge said that her reputation deserves vindication. The Judicial and Legal Services Commission did not act fairly toward Mrs. Grant Bethell in the manner in which they treated her application.

Further and more seriously, the Judge at page 47 of the Judgment raised the spectre that the criminal law may have been infringed by the Executive in the way they handled the mater of the Security and Intelligence Report that was used to deny Mrs. Grant Bethell the job for which she applied and for which she is qualified.

The Judge said and I quote: “It appears that SIB provided the report to the OAG.  This is a highly improper and is a breach of Regulation 7 if the arguments of Counsel for the Respondents are accepted that disclosure of the report may constitute a criminal offence.”

This is a serious mater.  It says that agencies of the Prime Minister's government may have broken the criminal law in relational this matter. That is what the Prime Minister ought to be concerned about, not attacking Mrs. Grant Bethel.

In any event, the Judge opined that the fair thing that should have been done was to put the second SIB report to Mrs. Grant Bethell since she dealt with the spurious allegations in the first report to the extent that the Judicial and Legal Services Commission were minded to appoint her to act in the job of Director of Public Prosecutions. In any event, I have a view which I espoused as minister and I still hold and that is that SIB reports are often based on gossip and trivia and are elevated in the minds of the bureaucracy to too high a level.

We again call upon him to cease and desist. Do the decent thing for once, settle this matter with Mrs. Grant Bethell and apologize for his behavior to the public and to Mrs. Grant Bethell.

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