

SENATE*Wednesday, April 07, 2010*

The Senate met at 10.30 a.m.

PRAYERS[MR. VICE-PRESIDENT *in the Chair*]**ORAL ANSWER TO QUESTION****Homework Centres
(Reopening of)****54. Sen. Corinne Baptiste-Mc Knight** asked the hon. Minister of Education:

With respect to the Homework Centres which operated at the Woodbrook Youth Facility, St. Paul Street Facility and Bishop Centenary, could the Minister inform the Senate:

- (a) if the centres would be reopened;
- (b) if the answer to (a) is in the affirmative, when; and
- (c) if the answer to (a) is in the negative, why not?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, I am not in a position to answer this question today, and I seek a deferral of one week.

Question, by leave, deferred.

TRINIDAD AND TOBAGO REVENUE AUTHORITY BILL

Order for second reading read.

The Minister of Finance (Hon. Karen Nunez-Tesheira): Mr. Vice-President, I beg to move,

That a Bill to establish the Trinidad and Tobago Revenue Authority and for related matters, be read a second time.

Mr. President, I am pleased to present to this honourable Senate the Bill to establish the Trinidad and Tobago Revenue Authority. This legislation was approved in the House of Representatives on February 19, 2010. Since that time, the Government has heard the concerns raised by members of the national community and we have sought and addressed these, while remaining true to the principle that underlies the need for the transition to the Trinidad and Tobago Revenue Authority.

That principle, Mr. Vice-President, is the provision of superior services to the people of Trinidad and Tobago in every sphere of national life. The collection of revenue is the means by which the Government is able to provide to citizens health care, education, national security and every other service which marks us as a progressive country.

At the same time, we acknowledge that most people will never enjoy paying taxes. We believe, however, that the process of meeting this civic obligation can be made as straightforward, uncomplicated and taxpayer-friendly as possible. We also believe that we can create an environment in which the persons who are responsible for the administration of the collection of revenue would be motivated to a higher level of service if theirs is a superior employee experience. We believe that a superior employee experience will lead to a superior taxpayer experience, and that a superior taxpayer experience will see an increase in the voluntary compliance with the tax laws of the country.

Mr. Vice-President, this is in keeping with Government's commitment to the people of Trinidad and Tobago to improve the quality of life of all citizens as articulated in Vision 2020. The establishment of the Trinidad and Tobago Revenue Authority is a step in that process. The Bill before this honourable Senate is designed to give greater transparency, efficiency and effectiveness to the management of revenue collection in Trinidad and Tobago.

The method taken to accomplish these worthy objectives has been tried and tested with success in many countries throughout the world including Peru, Ghana, Colombia, Uganda, Kenya and South Africa among the developing countries, and in Australia, the United Kingdom, New Zealand and Canada as examples among developed countries. It is noteworthy too that the Government of Barbados has taken a decision to transition to the Revenue Authority model later this year.

As indicated, citizens from different walks of life have expressed concern regarding the transition model to the Revenue Authority. We recognize that by and large, citizens agree that there is room for significant improvement in the administration of revenue collection. However, there is a sense that aspects of the transition can be handled differently.

Mr. Vice-President, some of these concerns arise out of a misunderstanding of the framework that has been developed for the TTRA. The voicing of other concerns has allowed us to examine the transition and make adjustments as appropriate. The concerns expressed are in the following areas:

- control over Government revenue;
- the need for a new framework;
- accountability of the Revenue Authority;
- accountability of the Board of Management;
- impact on employees; and
- control over Government revenue.

Mr. Vice-President, the administration of revenue collection in Trinidad and Tobago falls within the purview of two divisions of the Ministry of Finance: the Inland Revenue Division has responsibility for the collection of domestic taxes, that is to say income tax, corporation tax, petroleum taxes, stamp duty, value added tax, property taxes and other miscellaneous taxes such as import surcharge and the Green Fund Levy, while the Customs and Excise Division is charged with the collection of customs and excise duties.

Between these two divisions, more than 90 per cent of Government revenue is collected. In addition, the Customs and Excise Division has an important border protection function. At present, the Chairman of the Board of Inland Revenue and the Comptroller of Customs and Inland Revenue are designated receivers of revenue.

The responsibility of the receiver of revenue is to collect Government revenue and transfer revenue to the Exchequer Account, otherwise known as the Consolidated Fund. As we are all aware, the determination of the allocation of financial resources rests with the Parliament of Trinidad and Tobago on the recommendation of the Cabinet. Mr. Vice-President, these basic arrangements remain unchanged. Only the Parliament of the country will have the discretion on the allocation of revenue collected.

Reforming the process in the public service: Mr. Vice-President, many persons have asked why not reform the framework for revenue collection in the context of the public service? Why is it necessary to take revenue collection outside of the public service? In 1993, Government recognized that there were real technical and managerial problems within the Inland Revenue and Customs and Excise Divisions which could not be remedied internally. Technical assistance was therefore sourced from the United States of America and in 1994, a team of three officers from the US Customs was assigned to the Trinidad and Tobago Customs and Excise Division. Further, in 1997/1998, a team from the US Internal Revenue Services was assigned to the Inland Revenue Division with a mandate to assist in the reform of these divisions.

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This technical assistance resulted in the introduction of several initiatives such as the establishment of the Marine and Canine Units in the Customs and Excise Division, and the Petroleum and Large Taxpayers Unit in the Inland Revenue Division. By 2002, it was clear that these efforts were not bearing sufficient fruit and the environment within which revenue collection had to take place was continuing to change at a rapid pace and the scope of revenue collection was also expanding rapidly.

It is noteworthy, Mr. Vice-President, that in 2002 the revenue collected was \$12 billion and for the current fiscal year, it is anticipated to be in the vicinity of \$44 billion. At least that is the budget projection for this year.

In 2002, the Government appointed a committee to examine the feasibility of other arrangements for revenue collection in the country. The committee in its report identified 13 deficiencies in the revenue collection process in Trinidad and Tobago. Of those 13, 11 spoke almost exclusively to systemic shortcomings. Some of the deficiencies also related to management issues that could be addressed in the context of existing institutional framework such as investing in information technology systems and accommodation and Government set about that task.

It is clear however, that the fundamental systemic shortcomings could not be adequately addressed within the existing framework. An important point bears emphasizing here. Government is certain that the vast majority of workers in both the Customs and Excise Division and the Inland Revenue Division are hard working, honest and patriotic.

However, one of the findings of the Deane Committee was that there were incidences of corruption and it is clear that the constraints of the public sector rules make it difficult to address these with the timeliness that is necessary to avoid negative impact.

It is imperative that our revenue collection management framework be guided by the following principles. It must be robust, proactive, flexible, anticipatory, transparent and agile at a minimum. The framework should also be able to respond to the changing needs of our country as we rapidly develop.

Secondly, it should also be able to protect our national interest and security, while at the same time ensuring that the laws relating to revenue collection are applied transparently and equitably.

Mr. Vice-President, successive administrations have attempted to address the issue of public service reform and public service productivity with very limited and sustained impact. It is therefore against this backdrop that the Government is proposing the establishment of a revenue authority and the transformation of tax administration using best practices.

Accountability of the Revenue Authority: Mr. Vice-President, concern has been expressed about accountability of the TTRA. The authority will have a considerable responsibility that will impact on the lives of citizens. In this regard it is important to note that the functions of the Revenue Authority are limited to three areas as enumerated in clause 7 of the Bill: collection of revenue, administration of the revenue laws of the country and enforcement of the revenue laws of the country.

In addition to ministerial and Cabinet oversight, there is rigorous parliamentary oversight and I will go into specific provisions that address these matters when we consider details of the Bill.

Accountability of the Board of Management: Another issue raised is the power of the Board of Management, and the safeguards and accountability with respect to the Board of Management.

Mr. Vice-President, the structure of the TTRA is quite different from what normally obtains in a private company, or even a state enterprise. In the revenue authority model, and in the case of the Trinidad and Tobago Revenue Authority, there is a clear distinction between the functions of the board of management and the functions of the revenue authority itself.

The primary purpose of the board of management is to ensure good governance and oversight in the practice of management. The authority would therefore be insulated in law from interference by the board in the conduct of the authority's function as described by clause 7 of the Bill.

In other words, with respect to the collection of revenue, the administration of revenue laws and the enforcement of revenue laws, the board of management has no say in the day-to-day operations of the TTRA. The operating principle in this regard is that institutions matter and the good governance, effectiveness, efficiency, transparency and productivity is promoted and can be safeguarded by the provisions of clear institutional rules and mandate.

10.45 a.m.

I will now expand on some of the distinct characteristics of the Revenue Authority (TTRA).

First, its organizational structure: In choosing an organizational structure for the TTRA, Government reviewed the established structure and operating success of revenue authorities worldwide. Utilizing comparative research and benchmarking for best practice, a functional model was established which identified the key functional processes that a modern revenue authority should pursue.

Its state-of-the-art technology: The TTRA will be investing in state-of-the-art technology which will form the foundation for executing the functions of revenue collection and administration in the TTRA. In that regard, the TTRA will ensure the full implementation of both the Automated System for Customs Data Entry, otherwise known as ASYCUDA World and the Integrated Tax Processing System, otherwise known as ITPS, recently introduced at the Inland Revenue Division.

Its corporate character: Since the TTRA will no longer be within the public service system, the authority will be responsible for designing and managing its human resource policies, including those relating to recruitment, remuneration, promotion, training and development, performance assessment, conditions of work, discipline, termination of employment and superannuation benefits.

Its highly professional and competent human resource system: The TTRA will be instituting measures which will ensure that the best candidates are recruited to staff the TTRA. Such measures include the formulation of position descriptions which incorporate requirements that are consistent with the strategic goals of the TTRA, and a rigorous recruitment strategy which includes appropriate screening mechanisms, such as background checks and psychometric tests, where appropriate.

Of significance will be the institution of a Performance Management System which demands continuous assessment and is linked to advancement in the organization as well as opportunities for growth and development.

A Human Capital Profile has been developed for the leadership of the organization, as well as for all staff. Members of the leadership team must:

- Exemplify and demonstrate TTRA's values and ethics.
- Inspire commitment by staff to a vision of success.
- Create an environment where team members consistently push to improve team performance and productivity.
- Model excellence and motivate fellow team members to follow his or her example.

- Hold staff accountable for achieving standards of excellence and results for the organization.
- Manage the learning process to ensure that it occurs by design rather than by chance.

All members of staff will be expected to exhibit the following behaviours:

- Demonstrate TTRA's values and ethics.
- Exhibit high levels of personal and professional accountability.
- Be self-directed, competent and disciplined.
- Respond to client needs.
- Provide excellent service to internal and external customers.
- Create an environment in which concern for client satisfaction is a key priority.
- Subscribe to the philosophy of advancement based on meritocracy.

Further, in keeping with Vision 2020, Government is committed to creating a culture of excellence within the TTRA through training and promoting personal growth, development and innovation amongst its employees.

I will now turn to the legislation which establishes the TTRA. The legislation stipulates a governance structure and—

Sen. Mark: Mr. Vice-President, before the hon. Minister goes to the Bill itself, would you mind sharing with us whether your Ministry has done a cost benefit analysis of this model that you are preaching today? Also, could you tell us what are the projections you anticipate as they relate to revenue increases as a result of this model? Finally, could you also tell us what is the tax to GDP ratio that currently exists in this country and what is being projected when you bring into being this new authority?

Hon. K. Nunez-Tesheira: Thank you, Senator, and through you, Mr. Vice-President, he almost has me regretting giving way, because what he is asking me, I am sure, as a very experienced Senator would know, those questions can ably be answered in the context of the debate and I will use that opportunity so to do and I am sure other Members on this side will do so, so we will take a note of what you have asked.

I will now turn to the legislation which establishes the Revenue Authority. The legislation stipulates a governance structure and a division of functions

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among the Minister of Finance, the Board of Management and the management of the TTRA. It also enshrines the creation of positions of Chief Executive Officer and a Deputy Chief Executive Officer.

This Bill, which contains six parts and 40 clauses, includes a preamble, which requires the Bill to be supported by the votes of not less than three-fifths of all Members of each Parliament.

Part I of the Bill contains four clauses and sets out the preliminary provisions which are to be found at clauses 1 to 5 of the Bill. Continuing with clause 1, this clause is self-explanatory and cites the title of the Bill which is to be known as the Trinidad and Tobago Revenue Authority Bill, 2010. Clause 2 of the Bill provides for the commencement of the Act and stipulates that the Act will come into force on such date as is fixed by the President by proclamation.

The expressions contained in the Bill which require further definition and clarification are identified at clause 4 of the Bill. You will also see at clause 5 that this Act will bind the State.

Part II of the Bill contains two clauses, that is clauses 6 and 7, providing for the establishment and functions of the Trinidad and Tobago Revenue Authority.

Clause 6 is designed to give effect to the strategic intent of the Government, which is the creation of an organization which will operate with greater efficiency and effectiveness in the collection of revenue and in the enforcement and protection of the country's borders.

To this end, the Trinidad and Tobago Revenue Authority will be established as a body corporate with a legal personality capable of, amongst other things, suing and being sued in its own name as well as holding property in its own name.

In addition, in carrying out its functions, the Trinidad and Tobago Revenue Authority will operate with a higher degree of administrative and financial independence from the central government — [*Interruption*]

Mr. Vice-President: Sen. Mark, it is very early in the morning. We have a very long day today and a long day tomorrow. So, please, do not disturb us from this early—take your medication and—

Sen. Mark: Mr. Vice-President, I take objection to that; I take strong objection. I ask you to withdraw that, Sir. I am not under medication, Sir. I am a very healthy person, Sir. I do not need medication, Sir.

Mr. Vice-President: Minister, please continue.

Sen. Mark: I take objection to that, Sir. [*Interruption*]

Hon. K. Nunez-Tesheira: In addition, in carrying out its functions, the TTRA will operate with a higher degree of administrative and financial independence from the central government than the existing Inland Revenue and Customs and Excise Divisions.

Clause 6(3) of the Bill is of particular importance as it declares that the TTRA shall be an agent of the State. In this regard, it should be pointed out that the Minister's power of direction will not extend to operational, day-to-day matters involving taxpayer business. It is worth emphasizing that this authority granted to the Minister in this legislation is consistent with the authority that the Minister now has under the Exchequer and Audit Act. There has been absolutely no expansion of the authority of the Minister, and I wish to re-emphasize, there has been absolutely no expansion of the authority of the Minister.

The specific functions of the TTRA are outlined at clause 7 of the Bill as follows:

- (a) the assessment and collection of taxes under the revenue laws;
- (b) the administration of the revenue laws; and
- (c) the enforcement of the revenue laws.

It should be borne in mind that although clause 7 sets out in general terms the functions of the Revenue Authority, these functions of the Revenue Authority as an entity, are circumscribed by the provisions set out at clauses 9 and 17 of the Bill.

Part III of the Bill contains eight clauses, from clauses 8 to 15 and deals with the establishment of one of the key design features of the Revenue Authority, namely its governance structure.

As a corporate legal entity, the Revenue Authority acts through its board and employees. A board of management is established at clause 8 with responsibility for overseeing the management of the Authority. The board is made up of a mix of competencies and comprises nine members, all appointed by the Minister of Finance and at least two of whom are to represent the private sector. As this House is well aware, in the exercise of this power, the Minister acts in consultation and with the approval of the Cabinet.

The circumstances under which persons will be disqualified from being members of the board are clearly enumerated at clause 8(4) of the Bill and include non-residency, bankruptcy, criminal conviction and mental illness.

Clause 8(2) also prescribes the qualifications or experience that members must possess in order to discharge their functions. These are in the areas of management, finance, accounting, taxation, public administration, law or such other related field of expertise.

The TTRA will be managed by a board whose functions are outlined at clause 9(1) of the Bill and include approving management policies and ensuring that the Authority is managed in accordance with modern corporate governance procedures and practice. Charged with the responsibility for implementing its own policies, the board will have greater flexibility and autonomy over management processes.

Clause 9 also sets out the policies to be approved and implemented by the board. These include policies in specific areas such as the management of resources, service standards, property procurement and personnel, strategic plans, budgets and annual reports.

However, as I pointed out earlier, it is of significance that the Board of Management will not be responsible for matters such as the assessment and collection of taxes and the day-to-day administration and enforcement of the revenue laws.

The board will also not be permitted to provide specific directions to the CEO or any employee with respect to the collection of revenue nor with respect to the administration and enforcement of the revenue laws which are listed in the schedule to the Bill and include legislation such as the Income Tax Act, the Corporation Tax Act, the Customs Act, the Property Tax Act, the Value Added Tax Act and the Petroleum Taxes Act. There is also a restriction on access to any information concerning an individual or any person, obtained in the course of the execution of the functions of the Revenue Authority.

Further, the board will be prohibited from having access to any documents or other information concerning legal actions brought by or against the TTRA or its CEO. These provisions are outlined at clause 9(2) of the Bill.

The board will be accountable to Parliament through the Minister of Finance for management policies, including budget and human resources.

Under clauses 10 and 11 of the Bill, every board member will be subject to the full rigour of the fiduciary duties that are ordinarily placed on directors under the Companies legislation.

Clause 11 in particular mandates every member of the board to avoid conflicts of interests and to disclose any interest they might have in any proposed or existing matter placed before the board for its consideration.

At clause 12 of the Bill, the Minister of Finance is given statutory responsibility for the oversight of the Revenue Authority. This provision empowers the Minister of Finance to issue written policy directions to the board with respect to the performance of its functions. Where such policy directions are issued by the Minister, the board shall ensure that these directions are implemented. This is intended to allow for a certain degree of Executive authority and accountability without affecting the autonomous nature of the authority. Once again, I wish to point out that nothing in this provision expands the powers of the Minister of Finance beyond those that currently obtain in the revenue collection framework.

Clauses 13, 14 and 15 of the Bill provide for the tenure, resignation or removal of members and meetings of the board.

Under clause 13, the Minister is given the authority to appoint members other than the permanent secretary and the CEO, on terms and conditions determined by the Minister. It is recommended that the tenure for board members be on a three-year rotational basis with eligibility for re-appointment.

Clause 14 specifies that a member may resign at any time and outlines the circumstances which would warrant the removal of a member other than the permanent secretary and the CEO. This ensures that members fulfil eligibility criteria before and after being appointed. In addition, clause 14 clearly describes the responsibility of the Minister, where a member dies, resigns or is removed from office.

11.00 a.m.

Clause 15 provides for the meetings of the board which must be held at least once every month and be presided over by the chairman.

Part IV of the Bill contains seven clauses and provides for staffing for the authority. Clause 15 establishes the positions of Chief Executive Officer and Deputy Chief Executive Officer, who are to be appointed by the Minister of Finance on terms and conditions determined by the Board of Management.

The process will be that the Board of Management will do the screening and interviewing and will make a recommendation to the Government. This is no different from what currently obtains. Under the Public Service Regulations, the appointment of any public officer above Range 68 is subject to the approval of the Prime Minister. Indeed, in the TTRA, only these two staff members will need Government approval. A five-year renewal term for these officers provides the much needed stability for carrying out the day-to-day operations of the authority.

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At clause 17, the role and functions of the CEO are defined. These include implementing the policy set out by the board, administering the day-to-day operations of the TTRA and advising the Minister of Finance on matters that could affect public policy or materially affect public finances.

The provisions of clause 17 also recognize the dual responsibilities of the CEO to the board and the Minister of Finance. The CEO is accountable to the board for the implementation of operational policies relating to the management of the authority and to the Minister of Finance for the collection of revenue and administering and enforcing the revenue laws. Clause 17 also authorizes the CEO to delegate his powers and obligations related to the revenue laws to other senior officials and staff as he deems fit.

Under clause 17, no specific duties are assigned to the Deputy Chief Executive Officer. However, it is envisioned that he will play an effective part in providing support for processes that are more focused on organizational and system effectiveness, such as areas related to legal issues.

Clause 19 provides for the resignation, in writing, of the CEO and the Deputy CEO and the removal of the CEO and Deputy CEO by the Minister of Finance for cause.

Currently, the Public Service Commission and the Chief Personnel Officer are responsible for recruitment and discipline of staff and for determining terms and conditions for different levels of employees. Clause 20 of the Bill vests the board with autonomy to formulate and administer its human resource management systems.

Under clause 21, the Authority is empowered to engage persons with services to assist it in its work, under contract, on such terms and conditions as are agreed between the authority and that person. It is important to note that the authority does not need the approval of the Minister of Finance with regard to these appointments.

Clause 22 of the Bill requires the board to establish a pension plan for the benefit of the employees within two years of the coming into force of the Act.

Part V contains 11 clauses and deals with provisions that will govern funding and financial management. The intention behind clause 23 is for the Minister of Finance to obtain parliamentary appropriation for the operation of the authority and to make a payment to the authority based on that appropriation.

Mr. Vice-President, nothing in this provision authorizes the Revenue Authority to use any revenue collected in tax administration for any discretionary

purpose. Revenue collected will be and must be deposited in the Exchequer Account as is now the requirement.

Clause 24 recognizes the corporate nature of the Revenue Authority, which will be allowed to borrow sums required to meet its obligations under the Act, subject to the approval of the Minister of Finance.

As the major revenue collecting agent of the State, the Revenue Authority will be required, under clause 25, to deposit all public moneys collected under the various revenue laws to be paid into the Exchequer Account, otherwise known as the Consolidated Fund. This provision is consistent with the provisions of the Exchequer and Audit Act, which requires all revenue collected by or on behalf of the State to be paid into that account, subject to certain exceptions.

Some have asserted that the provisions in clause 26 give discretion to the Minister and/or the TTRA in the disposal of revenue collected. Nothing could be further from the truth. The Revenue Authority will still be under the mandate of the Exchequer and Audit Act, which provides no discretion in this regard.

Clause 27 outlines the procurement process of the authority.

Clause 28 exempts the assets, property and income of the authority from payment of all taxes of every kind.

Clause 29 requires the board to pay and submit annually to the Minister a strategic plan.

Clause 30 establishes a legislative requirement for the board to comply with Government's budget process.

Clause 31 requires the board to keep proper accounts and records maintained in accordance with internationally recognized accounting standards, principles and practices.

Clause 32 outlines the role of the Auditor General as the external auditor for the Revenue Authority.

Clauses 33 and 34 provide for formal annual reports to be submitted to the Minister of Finance and to the Parliament. This ensures accountability to the Parliament and to the Executive and increases transparency, efficiency and fairness in the operations of the authority.

Part VI of the Bill contains four clauses and provides for the miscellaneous provisions of the Bill. *[Interruption]*

Mr. Vice-President: Sen. Mark, please! Let us behave in a more responsible and honourable manner.

Hon. K. Nunez-Tesheira: Clause 35 creates an offence for breaches of the Oath of Secrecy.

Clause 36 is standard in all revenue authorities enabling legislation and will vest in the new authority all the assets and liabilities of the Government that exist immediately prior to the coming into force of this Act, in relation to the functions of the Board of Inland Revenue and Customs and Excise Divisions. This ensures a seamless transition from the Board of Inland Revenue and the Customs and Excise Division to the TTRA.

Clause 37 serves to save all rights subsisting against the Inland Revenue and Customs and Excise Divisions before the coming into force of the TTRA Act and to treat such rights as subsisting against the CEO as it relates to his duties as CEO.

Clause 38 repeals section 3 of the Customs Act, which establishes the Board of Inland Revenue consisting of five commissioners. Any reference to the board in any of the revenue laws will now be a reference to the CEO appointed under the Act, the Bill for which is currently being debated in this honourable Senate.

Clause 39 empowers the Minister to make regulations.

Finally, clause 40 empowers the Minister to amend the schedule to the Act by order.

The Government of Trinidad and Tobago will continue to work to ensure a smooth transition of the Revenue Authority; that staff are treated equitably and that benefits will be paid promptly after the date of separation. Every effort will be made to resolve amicably all matters relating to separation.

Impact on employees: I wish now to revert to the matter of the impact of this transition on the employees of the Inland Revenue Division and the Customs and Excise Division.

No change is easy and stress free, far more a change that impacts the livelihood of individuals with responsibilities. We have, we believe, been sensitive to the impact of this transition on workers. As was noted, the main purpose of the transition to the Revenue Authority is to address systemic risks and weaknesses in the revenue collection framework in Trinidad and Tobago.

We have also noted that, as far as the Government is concerned, the natural pool of human intellectual and social capital for the Revenue Authority resides in

the staff of the Inland Revenue and Customs and Excise Divisions. We are committed to protecting the staff of these two divisions.

The total number of persons occupying positions in both Inland Revenue and Customs and Excise Divisions is currently about 1,750.

Sen. Mark: How many vacancies?

Hon. K. Nunez-Tesheira: Mr. Vice-President, through you, I ask that Sen. Mark allow me to speak. If I have not answered, he gets all the opportunity in his contribution—I have given way to you and it was to no effect. [*Interruption*] As I am in you.

Of these, more than 240 have applied for transfers into the rest of the public service and these applications are being processed with dispatch. We expect that more persons will exercise this option. Furthermore, there are a number of staff members who are approaching retirement age and the severance package is something of a boon for them. We have indications that persons in this category will not want to transfer to the Revenue Authority. Therefore, persons who will be affected by this transition will be less than 1,500.

We are also clear that every person who is dedicated and hard working and who is adversely affected is one person too many. Accordingly, I will now outline how we have been mitigating the disquiet that the transition may be causing.

On that point, I wish to turn to the burning issue. I will have to do a little improvisation. This has been a dynamic process and I am pleased to announce that over the last two weeks, the Government team has been meeting with representatives of the recognized association, the Public Services Association, in order to come to a meeting of the minds on how workers of both those divisions would be affected.

I am pleased to state that we believe that we are very close to coming to a consensus on an issue, which was a pivotal issue, with regard to the employee related transition arrangements. We have a Memorandum of Understanding and we fully expect that it will be signed by both parties.

I would like to give an indication of how the whole issue of job security will affect the transition of the employees into the Revenue Authority. I will read from the agreement. It meets both parties' strategic objectives. It allows the Government to determine, as the employer, the persons they believe would best fit into the Revenue Authority and meet its strategic objectives both with regard to skills, qualifications and competencies. That has been maintained because it has

been agreed that there will be no transfer of employees of the Inland Revenue and Customs and Excise Divisions to the TTRA. It will not be an automatic transfer.

However, upon request, employees shall be transferred to other Ministries or Departments in accordance with the Public Service Regulations and relevant existing agreements between the Government and PSA. That is ongoing and the last update I got, two weeks ago, of a list of all employees on the permanent and temporary staff of both Customs and Excise Division and the Inland Revenue Division, there was probably every single position for which a request for transfer was made and which has been accommodated. There may have been one or two not transferred, but I expect that by now all those requests have been fulfilled as requested.

With regard to the temporary positions, that is an ongoing process. My understanding is that, with regard to the temporary positions, there is also the issue of promotion being addressed. I make that point to indicate that we are currently undergoing that transfer process. That is one of the things that have been agreed to.

11.15 a.m.

The existing employees, this is, I guess, the key issue, which deals with the job security issue. That is at (D) in the agreement.

“Existing employees of IRD and C&ED shall have the first priority for employment in the TTRA after consideration of their qualifications, experience, training and aptitude.

- a. Where existing employees of the IRD and C&ED are successful in obtaining employment in the TTRA, they shall be paid benefits under VSEP.”

Obviously, we know we are abolishing the posts and with abolition of posts comes terminal benefits. This VSEP is, of course, enhanced terminal benefits to be negotiated with the CPO. Those persons who are successful, they will be paid their VSEP.

- “b. Where existing employees of IRD and C&ED are not successful in obtaining employment in the TTRA...”

these are the options available to them:

- “i. Upon request, be transferred to other Ministries or Departments in accordance with the Public Service Regulations and relevant existing agreements between GORTT and the PSA.”

That is one option. The other option is to:

- “ii. Maintain their substantive post in the Public Service or be transferred to an equivalent post in the Public Service; or
- iii. Apply for benefits under VSEP.”

Of course, all employees have the right to apply for benefits under the VSEP.

We believe that achieved the objective of ensuring employment security. While meeting the objective, the Government, in its recruitment process should be free to recruit those persons who they believe are the best fit for the organization. We believe it is, what you would want to say, perhaps, a win-win situation. I think that the union, we believe, is ready to sign on that and there is no disagreement on that matter. I think it is a great indication of the Government’s ability to consult and the Government’s ability, of course, to have a meeting of the minds and be flexible in that regard.

We go finally to deal with engaging with staff. Representatives of the Trinidad and Tobago Revenue Authority Management Company have been going out to meet with staff and to share with them the facts of the transformation. We have found that once workers are in possession of the facts, their level of comfort and confidence is raised significantly. I would develop that more in the debate, but there has been significant consultation going on for over one and one-half years with members of the Customs and Excise Division and the Inland Revenue Division.

There would be a closed expression of interest process that would be limited only to staff of Inland Revenue and customs. In that process, staff of the two divisions would be invited to indicate whether they are interested in employment with the Revenue Authority, so that members who so indicate an interest will be provided with counselling and training to prepare their applications and ready them for the selection process.

At all times during this process, staff members will retain the right to apply for transfers into the public service. A number of staff have expressed concern about the balance between qualifications and other criteria. The TTRA will be using competency-based recruitment.

The Deane Committee noted that one of the deficiencies of the present system is the rewards and compensation system. Employees of the Revenue Authority can look forward to enhanced, equitable and transparent compensation and performance management systems, which will recognize merit. On that point, in

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fact, the agreement which we propose, we believe, that will be signed by both parties, speaks to the level of engagement between the PSA and the Government. In the agreement, I would like to refer to 4A, where it is stated:

“In the spirit of good relation practice, the PSA and the GORTT shall engage in open, meaningful discussions on transition issues relating to the design of the TTRA.

To this end, the GORTT shall present the PSA, for the information purposes, with true copies of the following:

- a. TTRA Organizational Structure
- b. A statement of total number of positions on the structure
- c. The total number of permanent positions and the related job titles
- d. The salary payable...
- e. A compendium of job descriptions...”

All of that in the spirit of consultation. In fact, that is a process which we had started to initiate even before this agreement was being considered.

The other last matter I want to address before I close my introduction to the Bill is the other major issue, the freedom of association and the right to collective bargaining. Freedom of association is a right enshrined in the Constitution of Trinidad and Tobago. Moreover, this country has acceded to and ratified the International Labour Organization’s Conventions 87 and 98, which are international standards for these fundamental rights at work.

The Government remains committed to respecting these rights in principle and in fact. It is for this reason that we are convinced that it would not be appropriate to write into the legislation an automatic right of recognition for any union in the TTRA.

At clause 9 of this legislation, one of the responsibilities of the Board of Management is the provision of a mandate for collective bargaining and approval of collective agreement. In other words, it is expected that there would be a recognized bargaining agent for workers in the Revenue Authority in accordance with the Constitution, the Industrial Relations Act and international labour standards.

In recognition of the principle, the Revenue Authority will facilitate the will of the workers by honouring any request for direct reductions of union dues or payment to the unions of his or her choice. In other words, the TTRA will not wait until the union has been certified by the Recognition, Registration and Certification Board before direct reductions are made.

Any trade unionist in Trinidad and Tobago will tell you that this radically reduces the time for recognition to mere weeks, rather than months or even years. We believe that a management labour partnership is in the interest of both the institution and the workers and are committed to having the workers of the TTRA work in that way.

In fact, that is stated again in the agreement. If we go to the agreement, it actually says at (H):

“The management of the TTRA shall facilitate the direct payment of union dues when requested by the employee.”

Sen. Mark: We want it enshrined in law.

Hon. K. Nunez-Tesheira: Concerns have also been raised about the separation package. The Chief Personnel Officer, the designate authority charged with negotiating on behalf of the Government, has made an offer to the recognized association. There has been no formal response to that offer. The Government awaits an engagement on this matter. In the meantime, the Government has all but completed the updating of the leave and pension records of the staff of the Inland Revenue and customs to ensure that separation packages will be paid promptly upon the coming into being of the TTRA. I repeat, the Government is convinced that the vast majority of the skills and talent required for the TTRA to achieve its purpose at providing superior service to the people of Trinidad and Tobago, lies in the hard-working staff of the Inland Revenue Division and the Customs and Excise Division. Therefore, it is incumbent on us all to ensure that everything is done to minimize the stress on this transition, so that when those members of staff who move to the Trinidad and Tobago Revenue Authority take up their new and enhanced responsibilities, they will be well motivated and have a high level of morale.

The challenges of development in this complex international environment marked by uncertainty will continue to increase. The Revenue Authority is one part of a comprehensive strategy as outlined in Vision 2020 to meet these challenges and take advantage of the opportunities that present themselves.

In the final analysis, the benefits to be derived from the Trinidad and Tobago Revenue Authority would result in the provision of a superior quality of living for every citizen of Trinidad and Tobago.

Mr. Vice-President, I beg to move.

Question proposed.

Sen. Christopher Joefield: Thank you, Mr. Vice-President. The Bill entitled the Trinidad and Tobago Revenue Authority Bill, represents not only a nightmare for workers of the Board of Inland Revenue and Customs and Excise Division, but it represents a direct challenge to the modus operandi of the entire public service. Our concern in that regard, we will debate later.

However, allow me to express our deepest gratitude to the Leader of the Opposition and the Members of the UNC for allowing the PSA the opportunity to articulate the position of the workers of the Board of Inland Revenue and Customs and Excise Division, as well as the wider public service, along with the labour movement, regarding this TTRA Bill. On behalf of the president and members of the Public Services Association, we extend our sincerest gratitude to you.

Additionally, I feel honoured to be entrusted with this Herculean task to lead off the debate on a matter which, if not carefully considered and addressed, could result in serious consequences for institutional stability in our blessed country. It is therefore a privilege to speak on behalf of thousands of public officers and their families, since it appears that public officers are being used as sacrificial lambs on the altar of expediency, rather than there being genuine meaningful consultation with all stakeholders, including the PSA, whose leadership is fervently committed to the genuine transformation of the public service aimed at increased efficiency, effectiveness and improved service delivery.

Our philosophy, our approach and policy perspective is at variance with that of the Government as manifested in the current piece of legislation and the utterances of this administration's leaders.

Make no mistake, the PSA is fully clear about the critical role the Public Services Association must play in the social and economic development of our nation. Therefore, we cannot support proposals that would lead to the demolition of decades-old institutions, which have defined this country's management styles and practices, all governed by rules, regulations and conventions and be replaced by any hodgepodge, not properly thought-out, purely politically-driven authority which would not be insulated from direct interference by Ministers of Government, as this Revenue Authority could turn out to be.

Mr. Vice-President, we in the PSA need a buffer zone between the public servants and the politicians, hence our commitment to ensuring the retention and the maximization of the use of the Public Service Commission as the employers of public officers in this Republic.

Under the proposed legislation, the workers will be at the mercy, whims and fancies of the Cabinet through the Minister of Finance and a CEO, who will be nothing more than the postman or postwoman of the Minister. That cannot be right. It is unjust and unfair for workers who are responsible for over 90 per cent of this nation's revenue to be reduced to the status of beggars and to individuals whose job security and upward mobility would be dependent on how easily they accommodate their customers, based on expediency and disregard for established procedures.

The representatives of the workers and indeed the labour movement believe that without cause, without any reasonable or rational explanation, without any productive or good intention, this Government as employer is hell-bent on destroying the economic future of over 1,800 public officers and ridding itself of two long-standing, long-serving public institutions; institutions the employees of which are established and protected by the supreme law of this land, the Constitution.

11.30 a.m.

In fact, it is the Constitution which establishes the Public Service Commission of Trinidad and Tobago at section 120(1). This section places the responsibility in the service commission to appoint persons to hold or act in offices including the power to make appointments on promotion and transfer, and to remove and exercise disciplinary control over persons holding or acting in such offices and to enforce standards of conduct on officers. The TTRA Bill removes these accustomed protections of the workers as established under the Constitution via the commissions.

We are not only concerned about these workers or about our own welfare in respect of successorship. Let me say here that there was no genuine intent on the part of the Government to arrive at a compromise with the PSA based on the conduct of the Minister of Finance. [*Desk thumping*] However, we are worried about the welfare and future of all workers in the public service, and about the economic health of this nation state if this Bill is passed in its present form.

We are concerned for the welfare of the employees in the Licensing Department, the Central Statistical Office, the Immigration Department and even those workers in local government, as the employer marches forward to privatize the public service.

Mr. Vice-President, we ask: What are the differences of a privatized public service? Why is the employer so determined to import private sector employment

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standards into the public service? What are the differences between the two systems of employment? It is not about improvement, we submit, it is not about control, direct control. [*Desk thumping*] It is only the power to hire and fire without regard for due process that this Government finds attractive and makes it so driven in this direction. This employer has only one agenda; to make the service commissions impotent and virtually extinct; make public officers insecure and more improvised as well as exterminate the labour unions concerned, even though the labour movement has always acted in the best interest of the citizens of this country. [*Desk thumping*]

Mr. Vice-President, we must remember that the history of the labour movement is literally a history of a struggle for constitutional reform and a history of struggle for the social protection and advancement of workers and human rights. It was not the PNM or any political party, but the selfless, militant and bloody struggles of the labour movement that generated partial representative government in 1925 and universal adult suffrage in 1946. All along this hard and risky journey, it regularly compelled the Government to enact laws to protect workers and to enrich their lives.

Mr. Vice-President, the very Constitution says that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, and that labour should not be exploited or forced by economic necessity, but the enactment of this Bill will do that to our citizens and the workers involved. Mr. Vice-President, this is wrong.

At present, this Government as the largest employer, is trying to trample on these rights to bulldoze these protections and to denude this land of any job security. We in the labour movement intend to stop them in their tracks.

Mr. Vice-President, we looked at the legal environment under which the United Kingdom and other nation states enacted their revenue authorities. The UK being the model upon which our entire political and judicial systems are based, and the UK Revenue Authority being the main model this employer says it used to design the TTRA, but the omissions in this Bill speak disaster for workers and their unions in relation to the UK Revenue Authority. We challenge anyone to find such omissions in any of the international revenue authorities that the Government says it used as the model, especially those of Canada and the United Kingdom.

However, from November 2002, until early 2009, this Cabinet agreed that employees of the Inland Revenue and Customs and Excise Divisions, with the exception of legal officers were to become employees of the authority to facilitate

a seamless transition. Such employees were to retain salary benefits, accumulated leave and pension benefits. The main survivor of that Cabinet is, of course, the Prime Minister. This was when the Government needed the support of the unions and workers, and now it cares nothing for workers and their representatives after achieving their objectives.

In 2009, when the Cabinet decided to remove the provision from the TTRA Bill, it started telling the media, the unions and the workers that employment is not automatic, and that if they were lucky enough to be reemployed they could then join any union of their choice. This Government thinks that it can legislate away the jobs and the very lives of workers and just continue on its merry way as if it is business as usual. This Government thinks it can bully, baffle and bluff its way over every legitimate obstacle and through every sincere concern, simply because it has the majority in Parliament. It thinks that an Act of Parliament enacted by an unpopular Government will be the end of this issue, but because of what is involved here, let us warn, it will only be the beginning.

Make no mistake, the Government not only wants to rid itself of around 1,800 appointed public servants, it also wants to sicken, demoralize and emasculate the service commissions, the PSA and the labour movement. It wants to turn every secure permanent employee into an insecure contract one. A contract employee must do as he or she is told upon pain of victimization; victimization that includes arbitrary, nay whimsical, suspensions and dismissals.

The bad faith and untrustworthiness of the Government as employer and its willingness to dismiss workers as a quick and easy solution is illustrated in an article in the *Newsday* of June 10, 2009 on page 16 when the Minister of Finance announces that the retrenched employees will also be allowed to apply for positions in the TTRA once their skills and ability qualify them for the position. Mr. Vice-President, wrong!

How many times have we heard this untruth? It is now a cliché. It is a handy rabbit this Government pulls out of a hat anytime it wants to trick its citizens. How can the hon. Minister talk about rehiring when this Government's own track record is of firing? The Prime Minister and his Government claim that they are not anti-workers, but this is the very Government that cruelly and unfairly fired 30 senior WASA workers, numerous PTSC workers and attempted to strong arm and emasculate their recognized unions in the process.

Let us be direct and truthful, who will be rehired will not be those who are most qualified or most competent or most senior. Without a doubt, it will be those

who this Government prefers. It happened at BWIA, it happened in the RHAs and, most importantly, if you take the time to look, it is happening right now before our very eyes at WASA.

Mr. Vice-President, it is only because of the dedication, sacrifice, knowledge and experience of the staff of both the Inland Revenue and Customs Divisions that we find that they have been able, despite all that has been placed in the public domain about inefficiency and poor productivity, not to mention the word "corruption", they have been able to surpass the budgeted revenue collection targets consistently over the years. [*Desk thumping*]

Mr. Vice-President, are these employees as corrupt and inefficient as the Government states? It has been said, in respect of the customs officer, it takes six months to train a customs and excise officer and, at the end of this period, the officer is equipped to function out in the field. This period represents the academic training only and an officer then takes three years of on-the-job training at the end of which that officer is now prepared for the demands of revenue collection. However, the technical knowledge and skills of a customs officer definitely takes years to acquire. Mr. Vice-President, for enforcement, in the area of marine interdiction, it requires an additional year of training.

Therefore, the approach that this Government as employer is taking ignores the institutional knowledge that resides in the particular divisions. The Minister said that the staff shall be allowed to reapply with the rest of the public. This indicates to us a failure to understand the work of customs. The institutional knowledge of the customs officer is clearly discarded. Of course, this may be to the benefit of certain stakeholders who may be pleased, because the obstacle of knowledgeable officers will now be removed.

In the present trade environment, the Customs and Excise Division has been able to identify the need to strengthen the enforcement arm of the division. However, because the staff allocation at the division has not met this need, this has been to the detriment of the staff performing the core function of revenue collection.

During the period 2005/2006, 240,000 import/export documents were processed and over two million passengers passed through both international airports; an additional \$13 million in duties and VAT were collected; and an average of 6,200 containers of cargo per month passed through the two major ports. Revenue targets were exceeded by 41.65 per cent. Revenue collection, as a percentage of GDP, is approximately 9 per cent.

In 2007, \$8.5 million in goods were seized, in addition to over \$67 million in narcotics. The total fines imposed for the period was an unprecedented \$5.2 million including administrative penalties of \$1.6 million. Mr. Vice-President, and we say these workers in the Customs and Excise Division are not performing. This action by the Preventive Branch and the Marine Interdiction Unit and the Canine Unit brought in additional duties and taxes which might have been evaded.

Mr. Vice-President, at present, the average shifts in the airport consists of four persons doing actual passenger and baggage handling and they are required to see on average 2,500 passengers, over 300 crew members and a minimum of 5,000 pieces of luggage on a daily basis. Mr. Vice-President, four persons!

Sen. Mark: You understaffed the people!

Sen. C. Joefield: On the ports, where there are approximately 10,000 vessels visiting annually, we have an average of two boarding officers posted at these stations on any given period. And the Government talks of inefficiency. By the way, one of the vessels boarded is the *Comanchero* and that might be of interest to certain Ministers.

Hon. Senators: Oh gooooo!

Sen. C. Joefield: The hon. Minister of Community Development, Culture and Gender Affairs was so kind to provide an example of the sort of misinformation that often takes place.

11.45 a.m.

At the port regarding the issuing of tickets and the location of any barrel or cargo is the purview of the port. I wonder how long it took the customs officer to actually examine the barrel? How long did it take the customs officer to process the entire transaction noting that the delivery of cargo is also a Port Authority function? Can anyone here in this honourable Senate declare that they know the work of a customs officer?

Let me break it down for you like this. With an establishment of 688 technical officers, the monumental achievements have been done by only 491 bodies with a shortfall of 197 technical officers, effectively a 30 per cent shortfall of required staff. *[Interruption]* However, this high level of performance has come at a price, because these officers, it has impacted on their health, their family life and other aspects of their private lives. Officers are forced to work in atrocious working environment and for extremely long hours.

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The PSA visited the location on Abercromby Street and we were appalled at the working conditions of these dedicated officers. However, these are the officers that continue to bring in the degree of revenue that runs this country. They do not complain. They work and they suffer in silence. We are concerned that the kind of rental being paid for that place where these people work, as we understand it, is \$860,000-plus. It is unfair for these people to be working in those environments and still be considered to be ineffective and inefficient workers.

The Gordon Deane Report which alludes to leakage could be attributed to the lack of proper tools, for example, the obsolete scanners which are utilized or the absence of container scanners, and therefore the leakages referred to cannot be blamed on the officers, because as we have repeatedly pointed out, the failures of the public service and in customs and inland revenue are not because of the staff, but certainly, it is because of the failings of the management and the policy makers. The delivery authorized system in customs was introduced to ensure that containers were efficiently processed, however, expediency came with a price, Lifestyle Motors and Centrin are clear examples.

To introduce such a system with the absence of container scanners is exceedingly irresponsible as over 90 containers a day leave the port unchecked and inevitably who is to blame? *[Interruption]* The customs officer, instead of the Government, who failed to install a single scanner in any port in any part of the country, then the hon. Minister of National Security, complains that the guns are entering the country far too quickly, but there are no container scanners. *[Interruption]* Did someone say corruption? *[Interruption]*

The law was amended to allow the exchange rate to be calculated three to four weeks before the arrival of commercialized goods into the country, as opposed to being calculated when goods enter the maritime space. However, it does not stop the importer from late submissions to have its documents passed. And the late submission queries occur with under-invoicing as a regular feature. The problem of under-invoicing is a major issue. How do we regard that other sector? By making them a part of the board.

In respect of the Board of Inland Revenue, how is it that the country's largest collection agency is not yet fully automated? Why are the external collection agencies still not online and money is not collected or remitted in real time? For the last four years, tax returns have been filled on the website but must be downloaded for submission. Why? Legislation is yet to be passed for an online submission. When is it going to be passed? We would guess when the TTRA comes on stream. As it stands now with the ITPS, a taxpayer can have a return in

less than three weeks and this has been done by the same inefficient employees of the BIR. Why did it take so many years for both the cross period offset which remits a return when moneys owed are taken out and the garnishee system to run in tandem? And we talk about leakage!

Where the BIR is concerned, they have met and exceeded all targets for the past 15 years. Not unlike the customs, who between 2004 and 2008 collected in excess of \$800 million beyond the set target, and all this is in an environment of non-trade barriers, open markets and free trade zones. In short, this Government creates problems with its sheer apathy and it misinforms its citizens regarding the solving of problems, and then it goes on to create bigger problems in the process of removing these BIR staff and customs staff.

The Government is destroying lives while it simultaneously tries to undermine and emasculate the labour movement. The process continues. A big part of the problem that we have with this Bill, and as any reasonable informed citizen would have with it, is that it is simply the bad faith and bad intentions, and worse, the track record of this Government.

Let us give a brief example: In a paper entitled the “Overview of the Proposed TTRA” by Dr. Andre Vincent Henry, Chairman of the TTRA Committee Limited which is dated February 03, 2010, Dr. Henry lists 13 deficiencies that a Government appointed committee observed in the BIR and the Customs and Excise Division. By the way, it is this same Dr. Henry who, when on WASA's board approved the summary, unfair, cruel dismissal of 13 senior WASA employees.

The eminent doctor stated that the committee also concluded that the Revenue Authority model of collection management provided an excellent framework to tackle these deficiencies. We do not have time to fully rebut this document. However, we would say that the deficiencies identified by that committee appear more applicable to this Government than to the Board of Inland Revenue and Customs, [*Laughter*] the most prominent being:

- The high incidence of corruption and corrupt practices;
- The lack of control over and accountability for budgetary allocations;
- The inadequate management capability, accountability and training;
- Inefficient systems of internal investigation and enforcement.

All apply to this Government. All of these failings apply to this Government.

According to the past Attorney General, Mr. Ramesh Lawrence Maharaj SC, we might as well enact a Trinidad and Tobago Management Authority that privately manages the country and makes the Government redundant. [*Laughter and desk thumping*] In its eight years in power the salaries of these workers under the Salaries Review Commission have been raised no less than three occasions. What is obvious is that all of these nice official sounding plans regarding the TTRA are nothing more than that. Plans! Plans that will gather cobweb and dust on some government shelf; plans that are incredibly expensive and useless exercises in management academics.

Mr. Vice-President, we ask you, who needs transparency, oversight and compliance more than this Government? Similarly, we are told that the framers of the TTRA decided to benchmark their design against Her Majesty's Revenue and Customs of the United Kingdom. But what is of paramount importance here, is that, in obvious contrast to Trinidad and Tobago, the United Kingdom has laws that protect workers and their representatives from exactly what the TTRA is bent on doing. The TTRA will destroy the rights, terms and conditions of employees and avoid consulting and/or negotiating with their unions.

In the United Kingdom, as early as 1977, legislation was passed in order to prevent such abuse and exploitation. This was the acquired rights directive. But the United Kingdom went even further in order to strengthen and enlarge this legislation and to plug existing loopholes; it enacted the transfer of undertakings protection of employment regulations of 1981. If that was not enough, the British, ever vigilant over worker exploitation and ever concerned about workers' rights and obligations enacted yet another statute to amend the first, that is, the collective redundancies and transfer of undertakings, protection of employment regulations of 1995 to 1999. What we have here, however, is a vastly different nation state than Trinidad and Tobago with radically different political and legal environment.

Even the blind will see this difference when they realize that the United Kingdom Ministers and politicians actually resign over charges of incompetence or corruption, and the United Kingdom Ministers are made to reimburse the state when they abuse state funds for private purposes. Here in Trinidad and Tobago no one resigns even if there is evidence of insider trading. It is therefore both obscene and a testament to this Government's cunning and willingness to deceive, that it compares its TTRA with that of the UK or any other revenue authority for that matter.

We have seen the obvious and crucial difference between this TTRA and that of the UK's. We must therefore question this Government's eagerness to mislead

the citizenry into somehow accepting the TTRA, because, according to them it is modelled on international revenue authorities having swallowed indigestible propaganda. We ask, every citizen must now regurgitate some key questions: Under what conditions did countries like Canada, Kenya, Australia and others enact a revenue authority? In doing so, did they dismiss thousands of workers? Did they seek to undermine, alienate and emasculate their respective labour movements? The answer is no.

In fact, in Canada no jobs were lost. Indeed, none was threatened. The unions did not lose their bargaining status and the majority of the members of the board of the Revenue Authority were not appointed by government. But even with all the present legislation in the United Kingdom which protects workers and unions, we are still to this day seeing serious flaws and the tragic consequences to Her Majesty's Revenue and Customs.

12.00 noon

It was created in 2004, and by 2007, with all the technological and human resources available to it, the revenue and customs lost 25 million records. This led Mr. Nigel Jones, Director and IT Forensic Expert, to comment that the loss of the 25 million records by Her Majesty's Revenue and Customs should be the wake-up call for everyone, both public and private sector. This also led to another comment on January 14, 2010, which states:

"The old system might not have been perfect, but at least it was largely workable."

Further, the headline of November 22, 2007, an article by Chris Mellor says:

"Her Majesty's Revenue and Customs boss quits because of systemic failure."

One of the Government's justifications for the TTRA is that it would improve the system, but here we see that a few years after the construction of the model which this Government used for its design, ever widening cracks are appearing all over its walls. What is surprising though is that the head of the board, Mr. Paul Gray, is said to have resigned over the loss of the 25 million records. This is surprising, because in Trinidad and Tobago, things operate differently. No public executives resign, even in the face of publicized corrupt practices that cost this country's taxpayers literally billions of dollars. Added to this, is yet another surprising fact, no one in authority has since been prosecuted for tax evasion. What all this amounts to is that the Government is using the United Kingdom model, which is far from efficient, which is somewhat elitist and which operates in a radically different socio-economic and political culture. In other words, this Government is radically misleading its citizens.

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In fact, Mr. Vice-President, none of the revenue authorities has behaved in the way that they were supposed to, and none has made any significant change in the socio-economic and political culture of their respective nation states. For example, the Background Paper to the World's Customs Revenue Conference in Brussels, Belgium, in December 2009, makes it clear that in several countries, no substantial increase in revenue was ever observed, even in the initial period after creation of revenue authorities. Remember the Government says that the TTRA will increase efficiency and lessen political interference, yet this paper says differently. It explains that there was no general conclusion that autonomy was good for performance by pointing out that the basis of the argument was unclear and largely anecdotal. It also exposed the obvious, that most RAs still remain politically influenced by the Minister concerned. Worse yet, what it revealed about corruption in the RAs, it says most RAs in Sub-Saharan Africa achieved a reduction in corruption in the initial period, followed by rising corruption after a certain period of time.

Another reason that workers must fear this Bill, Mr. Vice-President, is that it not only dismisses them and their representative unions, but it also further erodes, if not liquidates an important mechanism for the redress of wrongs, that is, their right to file constitutional motions against their employer. All the constitutional motions filed on behalf of police officers, prisons officers, regional corporations' workers and others by the attorneys, such as Anand Ramlogan and even Ramesh Lawrence Maharaj SC, were possible because their respective employers were governed and guided by the relevant service commissions of the Constitution.

Under the TTRA, this will not be possible because the Act makes the new company a semi-autonomous body. It removes it from under the Constitution. It creates a statutory authority, registered under the Companies Act that is answerable to a board, a Minister and to Cabinet, not to an independent service commission. Indeed, the entire country, all citizens, should fear, must fear this Bill because of its intention to remove all constitutional safeguards, autonomies and protections provided under the Constitution.

Mr. Vice-President, we need not remind anyone that the Constitution is the supreme law of the land, and that the BIR and Customs and Excise Division were placed under it for these very protections. If this Government succeeds with the TTRA, then which other commissions would be next?

Mr. Vice-President, they are flying in the face of the Constitution. The hon. Minister asked, what is the position of the trade union movement? Do we agree with the Revenue Authority or not? They would like to know. Our answer is we

do not agree. There are many alternatives, or there are other alternatives with the TTRA, that we are left in no doubt that the Government has its own clandestine, sinister, selfish and private agenda. Because of the major omissions from the Bill—[*Interruption*]

Sen. Browne: Which is?

Sen. C. Joefield:—which was first presented, we are left with no doubt that a major part of that agenda is to undermine the PSA, emasculate the trade union movement, and to make the jobs of permanent workers insecure. [*Desk thumping*]

Sen. Assam: That is it. You may not agree, but he has answered you.

Sen. C. Joefield: If you choose to destroy an entire entity because of alleged corruption, greed and inefficiency, then, you may as well destroy the rest of the Cabinet, the Executive, and many other public institutions because these entities, institutions have been painted red with an alleged corruption, greed and failure. [*Desk thumping*] We are saying that if the problems at the Board of Inland Revenue and Customs are organizational problems, then why not provide organizational solutions. History has shown that only when governments are forced by external lending agencies, such as the IMF, the World Bank, do they give specific mandates to reform state organizations.

The problem with these reforms, Mr. Vice-President, is that they are done on the basis of anti-worker models, dictated by the said agencies which invariably involve some variant of privatization, as the case with the TTRA, but here and now in Trinidad and Tobago, we have the opportunity to voluntarily and amicably resolve these organizational problems. Why do we not send in an institutional strengthening team or an organizational development team? Why not send in a management team? By this initiative, the employer or the Government would at least remain with the protection of the checks and balances provided under the Constitution for these established organizations.

Mr. Vice-President, let us indicate why this Bill strikes at the very guts of the public employers and their families. This Bill seeks to make them insecure. It seeks to turn them from a public employee—

Mr. Vice-President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. S. Rambachan*]

Question put and agreed to.

Sen. C. Joefield: Thank you very much, Mr. Vice-President. We would like to be real on the issues of the reasons why the average public officer or public sector workers chose to work in this environment, and it is because of job security which is inherent in a government job. His very life is invested there. This employee planned his career, his life and his family's life around the seemingly unalterable fact that in the public service his job is secure. He was secured and protected from the whims and fancies of petty, biased, vindictive and unpredictable employers. He sacrificed attractive salaries and expensive perks on the altar of job security. He has mortgage payments to make on a humble property, nothing like the property of politicians. He has car payments and school fees to pay. He has to daily endure frustrating traffic and worrying, distressing crime, and after 20 years or more, the Government rewards this public officer with threats of redundancy and retrenchment.

We will say it again and again, this Government has set up these workers. Over the years it has underpaid them, overworked them, deprived them of training and core resources, imprisoned them in stagnated temporary or first appointment positions; jailed their benefits and opportunities, exiled their negotiated salary increases, and now it accuses them of corruption, inefficiency and greed. And now it intends to act as judge, jury, and the executioner at their trial. [*Desk thumping*]

If you address all of these shortcomings, if you right these wrongs, do you not think that these divisions will become more modernized and efficient? If you give them modern state-of-the-art technology, if you train them, if you increase their pay packages, if you provide a healthier, safer working environment, do you not think you will achieve your ends? But no, you used them, abused them and now with hollow unfounded arguments, no empirical data, no critical analysis, you intend to discard them. [*Desk thumping*]

Mr. Vice-President, it should be remembered that in a democratic society, a public officer ought to be allowed to function in the kind of environment where he can pursue a career of professional and impartial public service, one that is free from the arbitrariness, nepotism and despotism that characterize the private sector. This is not simply a matter of the public officer's interest. It is above all else, a matter of public interest, that public officers are able to discharge their duties in an occupational context defined by political neutrality. The critical mechanism that makes this politically neutral context is the service commission, which has as its fundamental role the insulation of the public officer from inappropriate political influence. Remove this as the TTRA would do, and insecurity will reign. Even the arguments made against the service commissions for inefficient practices are flawed.

Within the last seven years, the Trinidad and Tobago Immigration Division has gone from an establishment of 80 persons to an establishment of 349 created posts, a growth rate of 250 per cent, which proves that the Government can, if it wants, broaden the establishment through the service commissions. [*Desk thumping*]

Mr. Vice-President, what will be poetic justice or cosmic, or even karmic retribution, is if this Government ignores the cries of labour and of its citizens, and enacts this Bill, and two years down the line, if it is in Opposition, it will then undoubtedly and magically see the obvious faults in the Act, but it will be left with no moral or any other kind of authority to criticize it because only two years earlier, it so stoutly and stubbornly defended it. Much debate has echoed in these halls on the TTRA. Many issues, laws and facts presented, but, Mr. Vice-President, fellow workers, we need to emphasize a sad and tragic fact. A fact that is the major cause of our outlook decision and plan of action. Every wrong and crime of which this Government accuses the Board of Inland Revenue and Customs, lack of integrity, corruption, inefficiency, reactionary tardiness, has and is being committed by this Government. Further, what has been glaringly absent from this Bill is protection for the workers and successorship for the relevant majority unions. This fault has been exposed on several occasions during the debates in another place.

12.15 p.m.

In the transition from National Housing Authority to the Housing Development Corporation and from Civil Aviation Authority to the Trinidad and Tobago Civil Aviation, job security and union successorship were guaranteed. It is shocking to know that these protections were first included in the Bill in 2002, when this Government wanted and wooed the support of labour, but are now excluded when it thinks it can ignore and exclude labour from its plans. Moreover, of utmost importance, is the fact that we do not believe that the TTRA would be the panacea for all the ills the Government propagates it will be. We affirm that the problems which plague the BIR and customs division will surely plague the TTRA. Why? Because the Government is the problem. [*Laughter*] [*Desk thumping*]

The politicians who control these constitutionally established divisions are the problems, not the organizations themselves. Clinging to, pointing and invoking the god of international models will not change this fact. In fact, we suggest that if the Government wants to use the United Kingdom (UK) as a model, as its benchmark, it should first enact the legislation that the UK enacted in order to protect workers, when the companies for which they worked were being

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transferred. This Government is essentially trying to transfer the Board of Inland Revenue and the Customs and Excise Division through the TTRA, minus their workers and their recognized majority unions.

In fact, if this Government wants to use the UK as its model and if it is sincerely concerned about the workers' welfare and about reducing crime, then undoubtedly it should already have enacted a Public Disclosure Act as the UK did. This Act did not only protect workers, but it protected them from victimization when they report crimes committed in the companies which employ them, but the tragedy is there for all to see.

This administration cares nothing for workers or even for its own citizens; if it did, it would not have removed the protections that were included in the Bill from 2002—2008. If it did, it would not be now trying to abolish regional corporations and cast thousands of workers on the breadline. If it did, it would not be hijacking the Constitution in order to terrorize vulnerable workers. If it did, it would pay more respect to the sanctity and supremacy of the Constitution regarding the protection of systems, workers and citizens. Furthermore, we could not help but notice, that in the debate in another place, especially in the exchanges between the present and former Attorneys General, what came to light was that the major reason for the TTRA was the inability of the Government to manage, direct, staff and control the Board of Inland Revenue and customs.

Sen. Mark: They want to control workers!

Sen. C. Joefield: In fact, every morning that you go to work, you cannot help but realize that this Government can control nothing. So what guarantee is there that it would be able to control the TTRA?

If this Government has shown anything, it is this: It is bent on doing anything it wants, no matter who says what. It is bent on pursuing a model of public sector management that has long been discredited all over the world, not only because of its failure to improve public services, but also from the disaster that results from trying to deliver public goods and services by using private sector models.

We are repeating and emphasizing this Government's intention to dismiss these workers, because we are convinced that this is exactly what it intends to do. If this injustice and exploitation does not stop here, what will follow will be protests and consequences of biblical proportions.

Mr. Vice-President, with due respect to all, do we really remember or know what it is like to be unemployed, to be on skid row? Even in our teenage years or as young adults we felt the intense stress of being unemployed, of the

expectations of what seemed like the entire world upon our shoulders. Could you imagine the stress and trauma of being unemployed at middle age? We live in a society and culture where workers live from paycheck to paycheck; the major reasons for this are the high cost of living, the incredible number of bills that public officers must pay each month, the number of dependants they have and their paltry salaries.

Whatever settlement they receive will soon dissipate and disappear. What then would be their position? They have given their entire lives to their jobs; most do not have any special skills. They were planning their careers to suit. Are they now supposed to slowly fade away, to start living lives of quiet desperation? There are literally thousands of cases worldwide where suicide is linked to unemployment, but, as usual, this Government does not care. It does not care who dies, who is killed, who is fired, who is suspended, who migrates or who is victimized. It has clearly demonstrated this for the entire world to see.

Mr. President, there are choices to be made. We can choose to privatize, brutalize and undermine the institutional framework built into the Constitution, which establishes a virtual buffer zone between the politician and the public officer, thereby guaranteeing a professional, impartial and somewhat independent approach to public affairs, in general, and in particular, the channelling of over 90 per cent of the country's revenue directly into the Consolidated Fund or choose a path of disguised and surreptitious privatization, which would compel contract workers to dance to both the rhythm and drum beat of their new master, headed by the Cabinet and led by a Prime Minister and his Minister of Finance, who collectively would determine whether these workers live or die.

Mr. Vice-President, this is the wrong path. We, therefore, fully support the former path and suggest that we reject this abomination, which is clothed in garments of efficiency, effectiveness and the eradication of corruption.

I thank you.

12.22 p.m.: *Sitting suspended.*

1.30 p.m.: *Sitting resumed.*

Sen. Subhas Ramkhelawan: Thank you, Mr. Vice-President, for giving me the opportunity to speak on this Trinidad and Tobago Revenue Authority Bill, 2010.

Mr. Vice-President, it is not often that I am given the honour to speak on a Bill, or to lead off the Independent Bench on a Bill that really has very little to do

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with revenues or the economy, even though the word "revenue" is put into this particular Bill.

This Bill really has more to do with the question of efficiency, equity and policy. Efficiency from the point of view that, is this authority going to add value to our country and our citizens in the movement of a number of people from one area, which is the Board of Inland Revenue and the Customs and Excise Division, into an authority? Some, not all.

Equity from the point of view that there have been a number of allegations made as to corruption within the customs division and the Board of Inland Revenue and this is one of the reasons proffered for the need for a Revenue Authority. And policy from a larger perspective of, what is it that the Government is seeking to do in terms of dissemination of a number of positions within the public service which fall under the purview of the Public Service Commission as per section 121 of our Constitution? These are indeed some rather broad areas that have to be examined before we set about looking clause by clause at the Bill.

Mr. Vice-President, earlier in the year, I had the opportunity to visit in India the Holy Cities of Haridwar and Rishikesh and I went to reflect upon a number of things; spirituality and I found the commercialization of religion. I reflected further, while I was there on this question of equity as it relates to the Revenue Authority but also as it is deeply embedded in the Vision 2020 preamble of the vision statement of the Government of the day. This vision statement clearly articulates equity as one of the components. It says:

"We are united, resilient, productive, innovative and a prosperous nation with a disciplined, caring, fun-loving society comprising healthy, happy and well-educated people built on the enduring attributes of self-reliance, respect, tolerance, equity and integrity."

And, therefore, I will start my contribution trying to dilate as it were—if that is a correct word—on this matter of equity. The reason for this is that if one of the reasons for the establishment of an authority is that there is or there are allegations of corruption within the Board of Inland Revenue and customs, we have to examine this matter more closely and examine it from the point of view of a senatorial assessment rather than from the point of view from persons who may be imbibing in a pub or rum shop engaging in what I like to call "rum shop rhetoric".

In rum shop rhetoric, one person says: you know all those "fellas" are a bunch of cheats, they are corrupt, they are thieves. Even though that might be an

unparliamentary word, I am simply quoting indirectly. Everybody else believes it. There is no need for evidence, or proof or anything, but once it is said, more often than not, it becomes accepted.

But these persons may be drunk with drink and we have to be careful that we as a nation not allow our leaders and decision makers to become drunk, not with drink, but with power and cause the overturning of established institutions without sufficient due care and diligence and proof and evidence before we make some significant steps. So we hear this matter of corruption and I wanted to establish whether this was indeed so.

I made a few calls to the appropriate levels to find out how many persons, how many officers in the Customs and Excise Division and how many officers in the Board of Inland Revenue have been accused, brought before the courts and convicted of wrongdoing, being on the take, being corrupt, and I could not get an answer. There was no answer. In the last 10 years, how many have we had?

I would look forward to the Minister in her winding up, being able to present to this honourable Senate what are the numbers that have been brought forward in terms of persons convicted. I have not heard an estimate of the losses to the country that have been realized because of such alleged corruption within the customs and Board of Inland Revenue.

And, therefore, I think we have had two Prime Ministers before who, when told of alleged corruption said almost exactly to the word; "bring the evidence." Bring the evidence so we can go after those persons who are corrupt and those institutions that are corrupt. Therefore, I want to ask the same question even though I do not and cannot consider myself in that particular league—please bring the evidence. Because we are required to make a decision, and pass laws which must be supported by evidence, in this particular case more than anything else.

So, as I said, in my earlier sojourn to those two Holy Cities in India, as I cogitated upon the ways of life in the words of Samuel Selvon, I wondered whether there was a new definition for the word "equity" in this country that I did not come across before, or are we revising the definition of equity.

The other matter that was raised in making a strong case for a revenue authority was the matter of efficiency. I listened carefully to the Minister to hear what were the measures of efficiency which provided the benchmark that would have supported that the current system is inefficient. Loss of revenue might be one against some targeted benchmarks and I heard from my hon. colleague, Sen.

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Joefield that the numbers realized in terms of collections would have beaten the targets. So I would like to hear from the hon. Minister whether or not that is so and what would have been the reasons for variances if any.

We have not heard the specific standards of efficiencies that we are looking forward to, and I would like to hear that because certainly it would help me in making my decision whether to support this Bill or not.

To the question of policy. It has been quite a long time, certainly not under this administration, since 2002, that there has been a move to decimate public service positions and we have heard in various places, in some cases the need to remove the service commissions altogether which is, in effect, a constitutional change that would have to be pursued.

Is this part of an emerging policy to reduce the size of the public service and, what next? Because what we have seen over time since 2002 with this current administration is the establishment of parallel organizations and institutions to substitute in some cases for the work of the public service and by that, I mean, the establishment of a number of special purpose companies but this is the first time that what we are seeing is the elimination of jobs within the public service itself. I think it calls for a clear policy articulation as to where this measure, the first of its kind is going to go. I would like to hear from the Minister some commentary or position of the Government on that matter before we go forward.

It was pleasing to hear from the Minister as we go beyond this, that some agreement has been reached with the Public Services Association which really creates in my mind a paradigm shift in terms of how or whether this Bill is going to go forward.

1.45 p.m.

Sen. Mark: May I, Mr. Vice-President, through you, ask the hon. Minister of Finance whether an agreement—[*Interruption*]

Mr. Vice-President: Sen. Mark! Sen. Mark, the hon. Sen. Ramkhelawan is making his contribution. What you could probably do is when you are making your contribution, you can ask the Minister. Okay?—if you are making a contribution.

Sen. Mark: No, no, no, is when, not if; when, when, when. [*Laughter*]

Sen. S. Ramkhelawan: Mr. Vice-President, I will pose the question to the hon. Minister, whether an agreement has indeed been reached and signed off. But it is my information that an agreement has been reached, and there are critical

parts of the equation, because before I came here today, I was minded in another direction in terms of equity, that you cannot take workers, put them on the street and give them Hobson's choice. Now what we have is a situation where there are real choices, in that, one you can choose if you are selected to go across, but that is not at your option; that is the workers' option, but you can choose to go into other areas of the public service at similar levels, which I think makes more than reasonable sense, and you could also choose to accept your VSEP.

So I think it changes the ball game a lot, because whereas previously, employees in the public service had no choice; you either accept this or you accept it. You accept VSEP or you accept VSEP. That was it. I think this changes the game. This is a game changer that says you have a choice and you can stay in the service. Now there ought not to be any Customs Officer II, III or IV, as we go along, so I would like to hear from the Minister in her winding up, what are the sort of commensurate positions within the service that employees in the Customs and Excise Division and in the Board of Inland Revenue would have access to in the event that they chose to stay within the public service.

Sen. Browne: I just want to clarify a matter, Senator, and thank you for giving way. I think I answered a Motion in the Lower House which dealt with the Trinidad and Tobago Revenue Authority a long time ago, and the issues on what were the options which were available to customs officers, with regard to all of those who would have been affected. The issue is, and quite frankly, as is available to any public officer in a similar position, it has never been said that they would not have been able to apply for transfers or anything else along those lines. Those options were always on the table and were never an opt-out. That was always an option that was on the table. I just want to put that in perspective.

Sen. S. Ramkhelawan: Well, I beg to disagree with the hon. Minister. I think it has been said that you had very little or no choices before. But I think that is an argument we can take in another place.

If the employees now have choice, I was saying there is a game change. The other party to this change remains virtually the same and that would be the clients of the Board of Inland Revenue and the clients of the Customs and Excise Division. What is it and how do we expect to increase the quality and calibre of service? Now a system is about people and procedures, whether the procedures are automated, manual, whatever; it is about people and procedures.

It seems to me that however you skin the cat, however you dodge, however you wriggle, we are going to end up with old wine in new bottles. Customs officers who only worked for the public service and Board of Inland Revenue

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employees—revenue officers and audit officers and so on, who have worked in the public service—have specialized training and education. You are not going to get anybody from anywhere else to do the work of customs officers, certainly not in the initial stages.

Therefore, as you choose to change from a board or division into an authority, the question really is: What is it that you are going to be able to achieve with the same people? It has been suggested that the level of discipline can be changed so that you can have faster and more efficient discipline; it has been suggested or postulated that people might be more incentivized because there will be higher salary levels for the same person doing basically the same job; that there would be higher benefits and remuneration.

I would like to hear from the Minister, since it seems to have been already established, what those levels are and how they compare with the existing levels within the Customs and Excise Division and at the Board of Inland Revenue now. I think, if we make it clear in this Parliament, it might be an incentive for those who have to move across to do so. But in any event, we would want in this Parliament, proper transparency and disclosure as to what is going to happen with those employees; what would be the changes in benefits. Because in the same way we could have cat-in-bag suggestions that we could have different benefits, they could go higher or lower. Therefore, we would like clarity and proper disclosure as to the benefits, in this Parliament. I think it is important.

So that while a sufficiently strong case has not been made with regard to efficiency of collections, nor has a sufficiently strong case been made in the second argument, that is, alleged corruption, then the case would have to be made in terms of being able to more effectively discipline and being able to more effectively incentivize persons who are operating in the authority. That might be a partially convincing argument in terms of going forward.

I would like to hear from the Minister about the process of transition from the existing Customs and Excise Division and Board of Inland Revenue to that of the authority. If it is that we are going to have a transition, let us say, on June 30, if the Bill is passed; if you are going to have a transition, what happens at 12.00 midnight on June 30 in terms of the protection of our borders? Because up to that point in time, will you have sufficiently qualified persons employed in the authority? I am trying to understand, because you are going to have to bring them from customs and you are going to have to bring them—the seasoned persons—from the Board of Inland Revenue, unless you have a plan that you are already

pre-training people. Obviously they will have no experience. But you are already pre-training people for jobs within the authority.

Sen. Mark: They will bring them from China.

Sen. S. Ramkhelawan: Well, certainly some of the containers which now come from China we would be able to read. But that is an aside. The quality of training and the quality of collections, I would certainly like to hear from the Minister how this transition is going to take place, be seamless and be effective. Because we did pass the Property Tax Act earlier in this year—no, last year it was—but we do seem to have some problems now in transition and we do not want to get things, especially the moneys of the citizenry, collected via taxes, we do not want to get our moneys lost in transition.

So I think procedurally and operationally, we would like to see that, because there really are a lot more questions than answers with regard to this particular Bill. Mention has been made by Sen. Joefield, that it is not proven—and I share that view—that revenue authorities that have been mentioned by the Minister, have been more effective or substantially more effective than the Customs and Excise Division and the Board of Inland Revenue. Maybe there is some evidence to support that and to satisfy that and, certainly we, in the Parliament, would like to hear that evidence in terms of strengthening the case and making a clear case for the Revenue Authority.

So, I have several concerns which I will summarize before moving on. Efficiency: A strong enough case has not been made. Corruption: A strong enough case has not been made. Policy: We have not really gotten a clear direction from Government as to what this first time step—if there is a second step—with regard to the decimation of the existing public service and the role of the Public Service Commission, going forward.

I want to turn to, and address some of the issues in the Bill itself. The thing that concerns me most is the role of the CEO and the function of the CEO with respect to clause 7 of the Bill. The CEO carries on or will be discharging the core functions of the authority, which is the assessment and collection of taxes under revenue laws; the administration of the revenue laws and the enforcement of the revenue laws.

Now the role of the CEO brings into perspective the role of the board and the relationship of the board with the CEO. My learned colleague, Sen. Dr. Rambachan, is an expert in organizational theory and behaviour, so I would expect to hear something more about this question of organizational structure

from him. But here is what we have. We have a situation where the board, even at inception, becomes a lame duck board, because the board cannot discipline the CEO and cannot enquire and interrogate the functions of the CEO, because the board is delimited from interfering with any of the functions of clause 7 which I have articulated.

It is a lame duck board. It sounds like a resource provision board. Who is going to discipline the CEO? Well, in one of the other clauses, it is the Minister who hires the CEO and the Minister fires the CEO. So the Minister ought to be disciplining the CEO in respect of functions under clause 7. I have not seen any connect where that disciplining process takes place. The CEO is, in effect, the managing director, because he or she sits on the board and I feel that that particular matter needs to be clearly and properly resolved in going forward, because here you have a board—just to give some more details.

2.00 p.m.

The CEO is intransigent. It is alleged that he has conducted himself badly in terms of a relation or in terms of dealing with a particular tax client. A complaint is raised to the board, but the board cannot investigate the matters with regard to tax because it does not have access to the information. It has no sight of the information because under clause 7 that is only under the purview of the CEO.

Here, already, you have effectively established a lame duck board. The board cannot do anything. The situation rolls down into the organization. If the CEO is disciplining a subordinate for improper assessment or impropriety in terms of tax matters, the board cannot get involved because it cannot look at the evidence to establish whether the complaint being raised by the subordinate is correct.

It may sound simple, but these are complex issues that have to be resolved. That is not the case with the existing Board of Inland Revenue and its chairman; nor is it the case with the Comptroller of Customs and Excise.

What concerns me as well are the qualifications of the CEO. Under clause 16, the CEO is appointed for a five-year period, so it is a contractual appointment. There is no room for a permanent appointment. I want to get to the qualifications of the CEO under clause 16(2). I will read, Mr. Vice-President, what the qualifications of the CEO are expected to be. Under 16(2):

"The Chief Executive Officer and the Deputy Chief Executive Officer shall be persons who have demonstrated skill and experience in the area of tax or customs administration, corporate management or areas such as accounting,

economics, law, business or any other relevant fields, and who have a capacity to manage and direct large and complex organizations and who have an understanding of the welfare of employees."

This means that the person could have experience in tax or customs administration, but it is not a necessary condition for the person to have that experience. You could have experience in law; not necessarily tax law.

How could you, unless "or" means "and" and that sort of thing, have your Chief Executive Officer responsible for the tax collection and revenue laws of this country and not necessarily having the experience in the area of tax or customs? It should be "and"; "tax or customs and other things". It is a necessary precondition for the CEO to have either tax or customs experience. I would ask the Minister to explain this particular aspect of section 16(2).

Now when citizens of our country hear the word "authority" they become frightened. "Authority" is a frightening word. Water and Sewerage Authority—frightened; Airports Authority—frightened; Port Authority of Trinidad and Tobago—frightened. [*Interruption*] My learned friend, Sen. Dr. Lenny Saith knows of all of them. Frightening! I would not say it, but many would say: Dismally inefficient!

So we now have a situation where we are going to add another authority that has not been proven through hard facts and evidence that there is a sufficient need for; not based on the arguments raised. The arguments may have been clear, but not cogent; not compelling enough.

The concerns of citizens have to be heard; the concerns of the employees of the Customs and Excise Division and the Board of Inland Revenue have to be heard.

I want to shift again to the composition of the board. I do not know why it is necessary that the composition of the board should be made up, inter alia, of two persons from the private sector. If members of the private sector have a complaint about the operations of the authority, they can take it to the board and the CEO of the authority. What is the rationale for having two persons from the private sector serving on the board?

As it turns out, the management board that is now in place—and I am not saying that all these persons would transit to the authority—but most, if not all of them, come from the private sector. I do not see the need for a stipulation that two persons most come from the private sector.

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I would like to raise two issues to which I hope the Minister would respond in the winding up. Under clause 6(3), I noted that:

"The Authority shall be an agent of the State."

And that the Bill, under clause 9(1)(f), provides for collective processes. Under clause 9:

- "(1) ...the Board shall be responsible for approving and ensuring the implementation of management policies in relation to—
- (f) the mandate for collective bargaining and approving collective agreements in relation to the terms and conditions of employment of persons employed by the Authority."

There is room and provision has been made for a bargaining authority. It may be to the chagrin of the PSA that it may not eventually turn out to be the PSA, but that is a matter for the PSA. I am really concerned with the employees and their ability to have effective representation.

I was a little confused by the statement of the Minister that persons who are employed with the Revenue Authority can remit their union dues to any union. I would be guided by Sen. Mark, who has some experience, or even Sen. Joefield or my learned colleague, Sen. Annisette, that you must have a recognized bargaining unit so that you can send the funds. I would be guided by them since I think they have some expertise in the area. I would like to hear their comments during this particular debate. I do not think you can simply send money to a union without it being recognized. We will hear from them since this is not my forte.

Getting back to subclause 6(3) and clause 7, I would like to ask the Minister, in her winding up: When you now move these divisions to an authority, do you need to ensure that the Freedom of Information Act not apply to them because they have oversight of sensitive taxpayers' information? I would like to ask that because once you start bringing it out, the whole question of freedom of information may or may not apply.

As to subclause 9(f), the question of collective bargaining is put in place by the authority. Would these employees have the right to strike? If that is so, it is a deviation from the existing situation, if my understanding is correct. Would our tax collectors have the right to strike or to take industrial action?

Sen. Mark: If they are unionized.

Sen. S. Ramkhelawan: Once they are unionized? I am asking that question because I do not want to think that there is a lacuna in the collection of our taxes

at any time. We are collecting less and less now. It is a question for which I would like to have some clarification. If the Minister in the Ministry of Finance provides that clarification, I would quite happily take my seat for it. Do you have the clarification?

Sen. Browne: With regard to what? Is that not what they are doing now?

Sen. S. Ramkhelawan: He does not have the answer. I have now to rely on the hon. Minister of Finance to give me that answer. Usually the Minister in the Ministry of Finance is well advised. This is not one of the cases where he is.

I turn now to clause 9(2) to reinforce this question: How is the Minister going to resolve this matter of a lame duck board that does not have authority and oversight of the CEO in the matters of revenue laws? I think it is elemental in deciding whether to support this Bill; whether you are going to have efficiency in terms of discipline of the highest position in the company, which is the position of the CEO?

Mr. Vice-President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Prof. R. Deosaran*]

Question put and agreed to.

2.15 p.m.

Sen. S. Ramkhelawan: Thank you, Mr. Vice-President, and to my hon. colleagues in the Senate. There are just a couple more points that I would like to make. Under clause 29 of the Bill, there is provision for the authority to develop and submit a strategic plan for the authority. This is an annual strategic plan. I do not want to get into whether an annual or biannual strategic plan is appropriate. What I would like to look at is the flow process, which ensures that plan is properly tabled to the Parliament. What the clause says is that a strategic plan will be prepared. But under subclause (2), the Minister shall cause that strategic plan to be laid in the Parliament within three months of receipt of same. I think for strategic plans to be effective, they ought to be submitted well before the beginning of the year in which it ought to be applied. No proper timeline is established here.

Take for instance your strategic plan for the year October 01 to September 30, there should be a requirement that the plan should be submitted to the Minister by, no later than September 30, one month before. Then, within a one-month or two-month period thereafter, within that set time frame, it should be delivered to

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the Parliament. Because what this does, is that it allows—you can submit your strategic plan anytime according to the law and then you add three months for it to be tabled in the Parliament. We have seen too many cases. We have seen from the municipal corporations and the various state companies, documents being tabled here. It is 2010 and we are going back to 2002 and the 1990s. I think for purposes of efficiency, if not anything else, there should be specific timelines to ensure that the documents which are submitted for purposes of disclosure and transparency, are submitted within certain stringent timelines. I think we can talk more about that at the committee stage.

Under clause 32(2), here again it really reinforces the case that this board is a lame duck board.

“The Auditor General shall have access to all books of accounts, records, documents, assets and information held by the Authority.”

I want to ask the question: Is it the intention of the Government and the hon. Minister, that the Auditor General would have access to individual taxpayers' receipts and information? All documents—[*Interruption*] it does not say, I will be so guided—except for section 7, which relates to the revenue laws and information. Is it the intention that the Auditor General will have access to documents which include individual taxes and tax receipts and submissions? If that is the case, I think it should be corrected and cleared up in this particular section, 32(2).

In wrapping up, I think the issues are clear for the citizens and for the Senate to consider, clear in the sense that a sufficiently strong case, up to this point in time, has not been made for the transition, in my view, from the point of view of efficiency and from the point of view of equity. As you drill down into the legislation itself, there is need for some adjustments, to ensure the efficacy of the board in managing the authority, or if not the efficacy of the board which will be relegated to the provision of resources, the board must have the authority to discipline persons who have access to tax information.

The question of: we need to strengthen the efficacy of the board and if not, we need to strengthen and ensure that there is clarity as to the ability of the Minister to discipline and under what circumstance the Minister will discipline and what access to information will the Minister have. I think it is very open for the organizational structure of an authority and the efficient operations of an authority.

With these few thoughts, I would listen out now for the stronger arguments that will come, in respect of the Revenue Authority. I thank you.

Sen. Mervyn Assam: Thank you, Mr. Vice-President, for giving me the opportunity to speak on the Bill before the Senate, the Trinidad and Tobago Revenue Authority Bill, 2010. I suppose I have to speak in the absence of any response from the other side, which I thought would have been the normal procedure if a debate is to be conducted, as I understand it, under the Westminster system. Be that as it may, I shall proceed.

Although Sen. Ramkhelawan said that this is not a revenue Bill, I do not agree with him. I would say why eventually. This is a most far-reaching piece of legislation and we should not take it as lightly as some persons may want to, simply because it removes from the purview of the public service, which hitherto, or at this point in time, has the sole authority to collect taxes on behalf of the Republic of Trinidad and Tobago. It removes from the purview of the public service and transfers this power to a company; a special purpose company. This is really unprecedented in the history of Trinidad and Tobago, where 90 per cent of its revenues will now be collected by a private company.

Notwithstanding the fact that it has been advanced that many countries, both developing and developed, have pursued this particular model, even though this has happened, there are many other countries that have not adopted this model. In fact, one of the largest countries in the world, Brazil, instead of pursuing the model of the Revenue Authority, proceeded to modernize its own tax collection system with great success. More than that, Canada, which is another country that was mentioned in this debate, in fact adopted the model. I think it was some time in 1996, where they combined both the Inland Revenue and the Customs Department into one body and then disaggregated them several years afterwards. I think somewhere in 2005 or 2006, they disaggregated them again because they felt that the model was not working as efficiently as they had anticipated. This is my understanding and you can debunk this understanding when you reply, hon. Minister. This is my understanding. This is what I have read. I may have been reading the wrong literature, but I understand they are now apart.

Hon. Nunez-Tesheira: That is correct. They are apart.

Sen. M. Assam: It is okay, you can correct me in your winding up, because everybody has their own understanding and their own appreciation of why decisions are taken or not taken.

I think we have to look at this piece of legislation, in my view, under three headings. Others may look at it differently. I would like to look at it in terms of the philosophy of this Government, the systems that this Government has either employed or failed to employ and the third area is process.

Mr. Vice-President, I am very concerned about governance models and particularly the governance models of this administration. There appears to me and to a lot of persons who are concerned about the direction in which this Government is moving and formulating policy, that the democratic system is being threatened. Very surreptitiously, the institutional arrangements as enshrined in the Republican Constitution of 1976, are being gradually eroded. Therefore, the Constitution in fact is being reformed without a formal vote in this Parliament and without the consent of the governed. That is what is happening and has been happening since this Government has been in office. They have been simply eroded by coming to this Parliament and seeking a three-fifths majority, which they have in the other place and which they more or less get with the assistance of others, in order to pass legislation that effectively erodes the constitutional arrangements of the 1976 Republican Constitution. To me and to many others in this society, this is a rather dangerous continuing development.

What is this Government attempting to do as it seeks to pilot this piece of legislation? It seeks to remove, from the purview of the service commissions and other bodies that are constitutionally part of our arrangements and place them elsewhere. It seeks to employ persons on contract, who are not public servants or public officers, whom they can hire and fire at their own whim and fancy. I am a bit surprised. I really did not think that the TTRAMCOL had already been established. I was not aware. I thought that there was merely an interim arrangement with an interim chairman. I see on this memorandum of agreement, which the hon. Minister of Finance indicated this morning, that the PSA and her Government had agreed to.

Hon. Senator: In the process of agreeing.

Sen. M. Assam: In the process, okay. I am prepared to be corrected by you. In the process of being agreed to. No problem, I have no difficulty with that. I see under the representatives of the Government of the Republic of Trinidad and Tobago (GORTT), there is already a Chief Executive Officer of TTRAMCOL. There is already a TTRA.

Hon. Senator: Interim.

Sen. M. Assam: It does not say interim here, it says Trinidad and Tobago—I thank you very much.

Hon. Nunez-Tesheira: Perhaps, it clears up something that has been said and a misunderstanding; referring to the Revenue Authority as a private company. It is not a private company. It is covered by the companies legislation. TTRAMCOL is

a company and it is governed by the companies legislation. The purpose is, obviously, to assist in the transition and the setting up of the Revenue Authority, which will be governed by this legislation. It is a company that is working; something like BWIA and Caribbean Airlines.

Sen. M. Assam: I am sorry that you used that example. It is a poor one, if it works like BWIA; a very poor example. I am not going to hit you for that, but thank you for the clarification.

It is this Government's model that I am very, very worried and concerned about. To repeat what Sen. Ramkhelawan said: What is next? Is it going to be Licensing Authority, the Immigration Department, the whole local government structure, the prison service or the fire service? This Government has been pursuing the public service or public sector reform for a long time. In fact, they had at one time the late Gordon Draper who was the management guru and who was supposed to revolutionize the public service and introduce all the advanced modern reforms of our public service. This has not happened. They have had several attempts at reform at the public service. In the interim, they have had police service reform, and prison service reform. They have had reform in the airline business.

Hon. Senators: Wade Mark reform.

Sen. M. Assam: Wade Mark too? Okay. In all of this, instead of things being reformed, in fact they were deformed and we continue to have this deformation taking place with every utterance or every statement made by Ministers on the other side. Therefore, I am worried about whenever the Government is unable to produce the kind of results they want to produce. It is not what is in the interest of the public or in the interest of the public servant, or the interest of the development and well-being of the society, they proceed to use the word reform and they in fact deform. Do you know what happens? What goes around comes around.

I would give you a couple of examples. I can spend a lot of time with this. At one time, there was something called MDC, Management Development Company; there was IDC, Industrial Development Corporation; TDC, Tourism Development Company; EDC, Export Development Corporation and they all have merged them and subsumed them into one giant umbrella organization called TIDCO. Do you know what happened? TIDCO is no longer in existence; it is now back to TDC.

Hon. Nunez-Tesheira: It went bankrupt because of roads.

Sen. M. Assam: Well, it is okay if you say it went bankrupt because of roads. I can tell you about bankruptcy.

Then, they have established all kinds of special purpose companies, because they say that the public service is not working. Could you imagine that?

Sen. Browne: Talking from experience?

Sen. M. Assam: You have it too. Do not let me speak. You have it too. They have established all kinds of special purpose companies. Anytime you go to confession and you want absolution, you must not make a partial confession, it must be a full one. All kinds of special purpose companies, they have established and they have all failed. To date, every one has failed.

It is not only failure, they have not only not delivered the goods and services contemplated by their organization and their establishment. They have failed to account to the people of this country and in some cases hundreds of millions and billions of dollars have been frittered away. Today we are in a position where the Attorney General comes to this Senate and makes a statement which people who were listening to, felt very, very disappointed and were very, very distraught at what has come to pass in Trinidad and Tobago.

This philosophical, if it is a philosophy, pursuit of this Government, in which they have a tendency to destroy everything—they destroyed BWIA, they destroyed TTT, they destroyed the health system, they destroyed the water system, they destroyed the teaching service, and they destroyed the police service. It has been a path of destruction by the PNM administration, successive PNM administrations—

Hon. Senator: Destroyed the UNC.

Sen. M. Assam: Destroyed the UNC? Yes and leading now to another destruction of the Customs and Excise Division and the Board of Inland Revenue.

The hon. Minister of Finance, I was a bit disappointed when in another place she did not go too very hard today in her presentation. She was rather less energetic in her presentation. My dear friend, Sen. Ramkhelawan said that she is neither cogent nor compelling. One would think that as a lawyer of some repute, she would have been more cogent and compelling. But, nevertheless, she behaved in a rather gracious manner.

The hon. Minister had, or still has, family who were some of the most outstanding public servants in this land. Her father was an exceptionally outstanding public servant. Her uncles were exceptionally good permanent secretaries. The whole family of brothers were all permanent secretaries. I was disappointed that she would come either to this House or to the other place and speak about, in a rather denigrating fashion, public servants who, through their

sweat and toil, built this land, before independence, as colonial civil servants and after independence for the last forty-something years.

Hon. Nunez-Tesheira: Thank you very much. Through you, Mr. Vice-President, I am sure the Senator, perhaps, has a short memory or has forgotten who made the presentation. In fact, much of what he just said is exactly what I just said in my presentation. I did commend the contribution that my father and my uncles made and I also said I have the highest regard for permanent secretaries, having come from a family that had permanent secretaries. I want to put that on the record. I have no disregard. In fact, I have the highest admiration for public servants, one of whom, I was one also at one point in time. Thank you very much

Sen. M. Assam: Thank you very much. It is very interesting that in your contribution in the other place, you said that they did not have the minimum requirements. It is doubtful whether these public servants can operate within the present contemplated framework. That is what you said in your contribution in the other place. That is in the *Hansard*, which I have before me.

We must understand where this Government is coming from, where it is going and where it will take us. Eventually, the children of Sisyphus will sit in judgment against them and that will not be before long. The children of Sisyphus, whom you claim to represent, will sit in judgment against you. It is not only the Customs and Excise Division and the Board of Inland Revenue, there will be many more children of Sisyphus.

It is all well and good to exercise power. A lot of us feel we have power. Like yesterday, they sprung this debate on us for 10.30 this morning. You have power. Shakespeare spoke about the milk of human kindness, but my good friend who is now deceased, the late poet "Syl" Lowhar, puts it in even better political terms. He said:

"Power is not enough to make you strong,
the heart must also sing the human song."

I would never forget that. We want to know what is the philosophy of this Government. They are talking about constitutional reform, but they are using every method, because of their three-fifths majority, to come to the Parliament to erode the constitutional arrangement and destroy the rights of citizens of this country. That is what I am concerned about; this governance model of this Government.

We want to introduce a new system. They are talking about all kinds of fancy things, where ASYCUDA and ITPS will be introduced. Do you know how long this has been on the cards? ASYCUDA? I am amazed that they are still talking about the implementation of ASYCUDA. I am amazed. *[Interruption]* I do not understand you. You have a PhD in Environmental Accounting and you understand everything. You have a PhD in Environmental Accounting and you know everything, so I bow to your superior knowledge.

Anyhow, we come to systems. I do not wish to be autobiographical, but I will tell you, I used to be the President of the Trinidad and Tobago Manufacturers Association for two years. I was on the body for many years, but I was president for two years, when Errol Mahabir was the Minister and when the now Prime Minister was the Parliamentary Secretary in the Ministry of Trade and Industry. We used to work very closely with the ministry and other governmental agencies, in order to bring about efficiencies and to see whether the Government would want to restructure some of these organizations, bringing legislation to simplify things. As a consequence of which, I sat on a committee called the Bureaucratic Simplification Committee. We made some serious recommendations to the government, in terms of the same Customs and Excise Division. Do you know what happened? As usual, it came to naught. Nothing happened. We identified the bottlenecks, the inefficiencies and the leakages and what were necessary, in terms of equipment, scanners, X-ray equipment, et cetera, to do the job and to provide both the public service and the business community with all of the various tools to increase efficiency, increase tax collection and reduce leakages, but it never happened because the PNM government is not interested in efficiency. They talk about it. They are not interested in it. They have other agendas.

When hon. Hector McClean, deceased again, was the Minister of Works and Transport, I do not remember exactly if that was the designation at the time, he was responsible for the port, I was appointed chairman of a committee by the then Minister, approved by the Cabinet; a Cabinet committee. I was made the chairman. There was Clive Spencer and some others such as the then President of the Seamen and Waterfront Workers, Vernon Glean and some of these people who knew about the port. I cannot remember all their names now, but I was the chairman. We presented the government with a top class report, with respect to all the bottlenecks and problems on the port, et cetera.

2.45 p.m.

Unfortunately, do you know what happened? The late Hector McClean crossed the floor. Do you remember the crossing of the floor? He became a back-

bencher and they scuttled the report, and nothing was done in terms of implementation. Again, they are not interested in improvements; in modernization.

We pointed out that there were systemic and attitudinal problems at the port, et cetera. They were lacking in equipment; they were lacking in controls; and they were lacking in all kinds of things, but they were not interested. The report never saw the light of day. So they come today—20-something years afterwards or whatever it is—talking about public servants are inefficient; they do not have this; they do not have that and they intend to introduce this system and that system and so on. Why did they not do that over all these years to improve, modernize and make more efficient the systems at the port, Customs and Excise and Inland Revenue?

I will tell you another story. After I left St Mary's College with my Higher School Certificate—at that time it was called that, it is now called A levels—I joined the public service as an acting second-class clerk. Mr. Vice-President, do you know in what department? It was the Board of Inland Revenue. So, when they tell me I do not know what I am talking about, I have experience at all levels in the public and private sector. I have experience in local government; I have experience in central government; I have experience in international government; and I have experience in the public service having worked there, and I hear today that I do not know what I am talking about. I worked there with some of the most brilliant minds in the Board of Inland Revenue.

Mr. Vice-President, in fact, people like CL Williams, Edghill, the brother to the then future governor general, Henry Hochoy and all these brilliant public servants. I sat at the feet of Gamaliel; all of them. At that time, the Board of Inland Revenue was an efficient and professional organization. What has gone wrong since the PNM took over?

After that, I went and worked in the Treasury; it was called the Accountant General's Department under, do you know whom? Sir Louie Alan Reece was my boss, and he was the Accountant General. In fact, I was one of the youngest men to have prepared the first budget for the Chief Minister, Dr. Eric Williams, with Dean Maraj, Albert Tam, Cecil Hague Dolly, Dennis Sardinha and Ainsley Tim Pow. We were the young group of “fellas” who prepared the first budget for the Chief Minister in the Treasury, because the Treasury then was the premier public service organization called the Accountant General's Department under Sir Louie Alan Reece, and they tell me that I do not know what I am talking about.

Sen. Mark: Do not worry with her. She is about to be fired by the Prime Minister. [*Laughter*]

Sen. M. Assam: So I could tell you, in terms of systems, the PNM Government was never interested in systems, because they were not interested in efficiency. They were not interested in efficiency because you know what happened. All the scandal from 1957 to date, you can catalogue all of the “bobbol”; all of the scandal; and all of the corruption from 1957 with Lockjoint, the *MV Margarita*, the *MV Port of Spain* and all of these other projects right down to today. That has been so because they never wanted systems of accountability and transparency and all of these things in place. They never wanted all of these things, because they had their agendas. They wanted to put their own people; they wanted to have direct political control; and they wanted to ensure that nobody else was able to rise except those whom they appointed. That is how it works today also.

Mr. Vice-President, this is a small country of 1.3 million, and our human resource base is rather slim. We have limited people in the various professions that you need to develop a society. The society is truncated down the line. If you are not a PNM, you cannot get this and you cannot get that. Can you imagine that? You are robbing this country of almost 50 per cent of its human resource base and sacrificing it at the altar of politics, political expediency and political affiliation. Is that not a sad thing?

Could you imagine this country being like the United States of America where Hillary Clinton and Barack Obama fought each other during a primary election? If you read David Plouffe’s book, *The Audacity to Win*—if you read that book for those who read—you would see that he had contemplated making Hillary Clinton his vice-president. You could imagine that after this fierce battle! His advisers told him that it may not be a good thing, because he may be having two vice-presidents instead of one and, therefore, he gave her an equally important job in his administration, the Secretary of State. Do you think that could have happened in this country? Not only that, he retained as his Secretary of Defence, Mr. Gates, who was Mr. Bush’s Secretary of Defence. He retained a Republican.

Sen. Gronlund-Nunez: Mr. Vice-President, Standing Order 35(1). Could I get the relevance? I think what the hon. Senator is talking about has nothing to do with this Bill.

Mr. Vice-President: Senator, I am sure the hon. Minister will soon be back on track on the Bill—sorry, the hon. Senator. [*Interruption*] Please, continue.

Sen. M. Assam: Thank you, Mr. Vice-President. I am sort of disappointed that the Senator from San Fernando—I am sorry the Senator was not sufficiently alert to understand the argument that I was putting forward. [*Laughter*] I was

telling this honourable Senate about systems—how systems work and how people are important to systems. Even though there may be adversarial relationships within a society, if the system is to work—if you are to utilize all your human resources and if you are to get the best kind of production and move forward in a developmental fashion as you talk about Vision 2020, that you boast about all the time in a vapid, vacuous way—you would understand the trend of my argument when I speak about Hillary Clinton and Barack Obama. *[Interruption]* Mr. Vice-President, you know, we have moved him from there to here. *[Laughter]* "Like all yuh blind! Yuh can't see or what!" *[Laughter]* Mr. Vice-President, it is all good to be lighthearted and jocular. That is part of it.

What has happened to the training programme of this Government in respect of upgrading skills? They do not want to upgrade the equipment—information technology and all these things—but what about the skills of the public servant that they have failed to upgrade?

You know, I find it very sad when I hear that you must have indefinite tenure of board members, because we do not have the skills. We have to import Chinese, Bangladeshis, Indians, Nigerians, Pakistanis and Filipinos and so on, because we do not have the skills in this country. After 47 years of Independence; after the University of the West Indies that has been established for over 50 or 60 years in all kinds of disciplines, we do not have the skills! We have UWI, UTT, the University of the Southern Caribbean, COSTAATT, John S. Donaldson Technical Institute, OJT, MUST and HYPE and all these kinds of acronyms, and they have been boasting.

The Minister of Science, Technology and Tertiary Education who made the statement yesterday boasted of how many thousands of persons have been trained by YTEPP and so on, and we do not have the skills in this society to propel this country into a certain kind of developmental trajectory of which you can be proud. Today, you come and say that you must have a special purpose company—however you want to call it—to collect 90 per cent of the revenues of this country after you have failed to give them the resources and you have failed to train them.

Do you know what is contradictory? I was amazed at the Minister. It was very sad when the Minister said that they do not have the skills to be absorbed into the new entity, and then she backtracked and said that there was some little agreement or they are in the process of an agreement and so on.

Let us suppose, for example, they did not hire anybody from the existing bodies—whether it is from the Customs and Excise or the BIR—where will they

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get the 1,700 or 1,800 persons to staff the authority? Where will they get them? Is it from Mars, China, Bangladesh, Pakistan or Egypt? Where are they going to get these people? The Senator spoke about this question of transition.

When this thing comes into effect at midnight on June 30, 2010, on July 01, 2010, would you have things in place to protect the revenue of this country; to protect the borders of this country; to protect the systems of this country to ensure that business continues to run smoothly; and that manufacturers and importers and exporters can do their business as usual? Do you have that? Where are you going to get the people from? Let us say that you have to employ all the persons in this new arrangement, where are you going to get them from? Unless they are going to fall from the sky, or unless you already have a training programme where you have already recruited and trained and so on.

More than that, let us suppose, for example, as we are hearing now, that you are likely to employ a percentage of the existing cadre of staff; both at BIR and at the Customs and Excise Division, are these not the same elements that you are rejecting now? Do you mean that you are saying, like what is said in the *Bible*, that the stone that the builder rejected will now become the cornerstone of the new institution? You have just rejected them. The stone that the builder rejected will now become the cornerstone of the new institution. What kind of contradiction is that? Does it make sense?

The first scenario cannot make sense, because you could not have employed and trained all these people so that at midnight of June 30, 2010 or the morning of July 01, 2010 you are going to have all these things in place—the 1,700 or 1,800 persons trained to do the work of customs officers and BIR officers.

On the other level, if these people are incapable now—they do not have the skills; they do not have the customer-service attitude; they are incompetent; and some of them are dishonest, et cetera, what are you going to do? Would they go into the confessional or would you use the baptismal waters and convert them by pouring water onto their heads and immediately they are transformed? Is that what is going to happen? Tell us how you are going to do it! How are you going to transform these persons who are reprobates at this point in time? Some of them are reprobates, dishonest, corrupt, inefficient, incapable of being integrated, not customer-friendly, they do not know this and they do not know that and they are incapable of being integrated into this high-level, high-powered organization.

Do you know something? Another funny thing about this organization is that it is like a one-man show. The CEO is a one-man show. All this structure is a one-

man show reporting to the Minister, because the deputy CEO is a sinecure position and he is a vassal of the CEO. *[Laughter]* The deputy CEO is a sinecure position and he is a vassal of the CEO. He has nothing to do. Read the Bill! He has nothing to do—no duties, no functions. So he is a sinecure and he is a vassal of the CEO. So, whatever the CEO tells him to do, he has to do it. It is true. I read it, so I can quote it. The deputy CEO has nothing to do. I have next to it a sinecure vassal. That is what he is, because the CEO reports directly to the Minister and the CEO controls the rest. So it is one-man show.

The board, as you know—Sen. Ramkhelawan pointed it out very clearly—is a lame duck board. The board has no power. The board would just go to meetings and sign off minutes. That is all they will do. They cannot do anything in terms of the running, the efficiency or the administration with that Revenue Authority.

So what has the hon. Minister presented us with? Tell us! This almost reminds me of when I was a little boy, and I used to play Monopoly. This looks like a Monopoly game that you have presented us with here. That is not good enough. We want to support anything that would produce results; that would aid development; and that would even help you in your 2020 vision, although I am not too sure that you have good vision.

3.00 p.m.

I do not mean you. I am not personalizing this thing. When I say you, I do not mean you. I never personalize. I mean your Government. Not you, I respect you. Your Government! I do not even know if you have this 2020 vision that you claim to have, because when you read that 2020 vision document, it is pie-in-the-sky you know. Even some of the persons who contributed to it have written subsequently and said it is pie-in-the-sky. They have said so, I would not call names, but they have written and said so. Unachievable! It is a lot of words, and imagine you want to have a vision of a fun-filled society. This is a vision! A society of fun? That is a vision? Come on; let us be serious “nah” man. *[Laughter]* That could never be a vision, a fun-loving society. You want more fun? *[Laughter]*

Sen. Manning: It is better than going to war.

Sen. M. Assam: You want to have Carnival 365 days a year? Come on man, you people are making a joke of this country you know. *[Laughter]* You are really making a joke of this society. You are really creating a decadent society! *[Interruption]*

I am amazed that trained persons like the hon. Minister of Finance, trained persons like the Minister of Trade and Industry and Minister in the Ministry of Finance, trained persons like the PhD in the environmental accounting and so on.

Sen. Dr. Dick-Forde: That bothering you? Is that bothering you?

Sen. M. Assam: Yet still you all cannot put together—

Sen. Dr. Dick-Forde: Is that bothering you?

Sen. M. Assam: Nothing is bothering me. [*Interruption*] I am giving you what you said. You boasted in the Senate of having a PhD in environmental accounting.

Sen. Dr. Dick-Forde: I do not boast. I do not boast.

Sen. M. Assam: I looked at Channel 11! Even before I came here I was looking at Channel 11 and you were boasting about your qualifications. What I am saying is, all of these trained people on that side, or you claimed to be trained people, you have letters after it, you mean you cannot put together credible policies and programmes to advance the people of Trinidad and Tobago and you have them mired in all of this decadence. The “vengeance of moko” would fall on you, you know. [*Laughter and desk thumping*] The “vengeance of moko” would fall on you, and to repeat, when you see the children of Sisyphus sit in judgment against you, it would be terrible, according to Orlando Patterson. It will be terrible. Talk to Orlando Patterson and he would tell you what the children of Sisyphus are capable of. [*Laughter*]

Sen. Browne: I know you know firsthand. [*Continuous laughter*]

Sen. M. Assam: I come now to the question of process, that was the third part of my argument, the third pillar of my argument.

As I said, not because you have power you just run roughshod over people and you do as you like and you say you consult. You know we have a “fella” going across the country saying he is consulting on constitutional reform, but if you ask a question he shuts you down or he wants to tell you what his point of view is. He does not want to listen to you. He calls that consultation on constitutional reform, but when you talk to him he shuts you down or he wants to tell you what it is. [*Interruption*] You know that.

Hon. Senator: That is true!

Sen. M. Assam: I am looking at the television and listened today and I said, what is going on? Just as how they fired UDeCott board, he should be fired too!

[*Laughter*] He is not doing you a service. I am trying to help you. He is not doing the Prime Minister and his Government a service. He is not by that attitude.

Not because you have the power. Power should bring humility with it. [*Laughter*] Humility is an important part of the exercise of power. [*Laughter*] Do not laugh Senator; you are laughing.

Hon. Senator: It is ironic.

Sen. M. Assam: It is not ironic at all. Nobody could tell me that I have ever exercised anything but humility. Nobody could tell me so.

Hon. Senator: “Ooooh.” [*Laughter*]

Sen. M. Assam: But we would argue about that at another time. [*Interruption*]

Process, Mr. Vice-President, is one of the most important ingredients in good government and good governance. Very, very important! How you go about things will depend on the kind of results you get and the responses you get from the people who you want to buy into whatever changes or whatever kinds of programmes or policies.

You see the hon. Minister of Local Government, she has been going around, whether her policies are right or wrong and a lot of them are flawed, but nevertheless, you have to give her credit, she goes around to Princes Town, Penal/Debe, Arima, San Juan market; [*Interruption*] she almost reminds me of St. Martin de Porres. She has the capacity to be in several places at the same time. I do not know how she does it, but she goes around and she is consulting, she is talking, she is interfacing, she is interacting.

Sen. Manning: Listening.

Sen. M. Assam: That is what process is about. Whether your policies are right or wrong, you have to do that. You cannot just foist your ideas and your position on people. It has to be a negotiation binding kind of thing. This Government needs to adopt the whole question of process in a different way.

Now, let us get back to the Bill. You said you started off in 2002 and you have had discussions with the Public Services Association, but you have had over that period of time so many changes in your position that today—when I say today I do not mean today but I mean over the last thing—you have had a kind of resentment, not only from the BIR and customs, but from a large body of public servants against your process. And do you know what has happened? This lack of

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proper process has led to the politics of protest. Everywhere you go in this country, lack of process is leading to the politics of protest. People are protesting for everything; water, roads, infrastructure, electricity, jobs, housing; I mean every conceivable human need and want is so lacking in this country that the politics of protest has dominated the landscape of this country.

Mr. Vice-President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. S. Rambachan*]

Question put and agreed to.

Sen. M. Assam: If you do not want to give it to me, that is no problem. If you do not want to give me the 15 minutes, it is neither here nor there with me. [*Interruption and desk thumping*] But nevertheless, let me thank you for your abundant generosity. [*Laughter and interruption*] Thank you for your abundant generosity.

So let me get back to the third pillar and the question of process. Anytime the Government wants to initiate changes, particularly far-reaching changes, it behooves them, it is incumbent upon them to consult with either the organizations or the community or sometimes it is the entire national community about these changes. Instead of using your constitutional majority in your Parliament or the susceptibility of power—you know when the Prime Minister walks in a community there is that susceptibility of power, obviously, he can give you a standpipe, he can give you a drain, he could give you a CEPEP contract, he could give you a house; that is not what it is all about. That susceptibility of power is a dangerous thing and sometimes it comes back to haunt you as it did in Valencia recently and at the velodrome recently and some other locations.

You got to go to the people in all honesty and present them with what you think are the pros and cons of a situation that you wish them to consider for the Government to bring about change in the country, the society or in the community. That is how it has to be done. But what is happening increasingly, is a kind of totalitarianism, a kind of authoritarianism, a kind of power hungry or power centric posturing and things like that, and then you go out into the community and you say all kinds of bad things about people, how UNC people have arthritis. [*Laughter*]

Imagine a Prime Minister who has health challenges, not that I am happy about it. I am never happy about people's health. A man who has several health challenges is going and talk about the UNC has arthritis. Could you imagine that? [*Laughter*]

Sen. Lezama: Irrelevant.

Sen. M. Assam: It is irrelevant?

Sen. Mark: Do not take on Laurel; she is about to replace Penny in Arima. [Crosstalk] “Doh” worry man, wherever you are going I am going.

Sen. M. Assam: I think I would ignore the junior Senator from Arima.

Sen. Mark: Yes, yes.

Sen. M. Assam: I will ignore her; she has a lot to learn.

Sen. Mark: Yes, she is not ready.

Sen. M. Assam: She has a lot to learn.

Mr. Vice-President, if the Government had followed proper process in this particular situation of the Trinidad and Tobago Revenue Authority, the results would have been entirely different and possibly we may not have been here today. Or if we had come today it would have been an easy passage, because, as I repeat, we are here not to oppose for the sake of opposing. We will support measures that are in the interest of the country, of the people, of the sectors. Anything that will advance this country we would support. But we would not sit here and you expect us to support or not to criticize measures that are inimical to the interest of the people of Trinidad and Tobago. We are not going to do that, and we have identified many areas that have been foisted upon this country that are inimical, and today we have sown the wind and we are reaping the whirlwind. We are reaping the whirlwind today.

Hon. Nunez-Tesheira: I love it. [Laughter]

Sen. M. Assam: You love it, “eh”. An old student of literature like yourself. [Interruption] An old student of literature like yourself, like your good dear uncle and your sister who is also a literary giant. [Laughter]

Mr. Vice-President, I would like the hon. Minister and her Government to—

Hon. Nunez-Tesheira: Senator, you brought rain.

Sen. M. Assam: I always bring blessings. [Laughter]

Hon. Nunez-Tesheira: You were now talking about humility—[Inaudible]

Sen. M. Assam: So bringing blessings is not being humble? [Interruption] So when the priest blesses you in church he is not humble?

Hon. Nunez-Tesheira: You must not speak about—[Inaudible]

Sen. M. Assam: “Oh gosh boy, something wrong with yuh”, your brain is getting addled you know. You see this work; this work is getting too hard for “yuh”. [*Laughter*]

When I read this work in progress, to use the Minister of Planning, Housing and the Environment thing—it is in progress—I would like to see this agreement completed by this evening where the terms and conditions of employment, of transfer, of retention or whatever it is, whether it is in the public service, whether VSEP, whether it is to go to the TTRA, amicably resolved. I think it does not help this country to have a public service on edge, a public service in protest, a public service that can do damage, not to the Government really, but to the country; the economy of the country; the manufacturers and the exporters. It will affect our competitiveness, it will affect our economic growth, it will affect our GDP and it will affect your revenue collection. You cannot afford that.

It is not that you want to mollycoddle anybody. It is all in the interest of fairness, and to use the Senator's word “equity” and to use their words “justice”.

That is all it is, and therefore, I will end by repeating the three planks; the philosophical position that the Government has been taking, it is totally and very dangerously poised in terms of erosion of the Constitution and surreptitiously bringing Bills to Parliament because they have a three-fifths majority in having them passed. The whole question of the systemic problems that they have created and the lack of training that they have not introduced and so on, and the process by which they arrived at legislation and the process by which they want to increase the economic pie and to bring about development in Trinidad and Tobago.

I thank you.

Mr. Vice-President: And the country thanks you for the rain dance.

3.15 p.m.

Sen. Annette Nicholson-Alfred: Thank you, Mr. Vice-President. Thank you for this opportunity that I have been given, to make my contribution to a Bill to establish the Trinidad and Tobago Revenue Authority and for related matters. I have been reading a lot about the TTRA. I have listened to a number of debates in both Houses, at home, on the streets, and I also had discussions with the man in the street, as usual, about the introduction of the TTRA.

I have been presented with a number of deficiencies in the present system. Whether these are true or false, I cannot verify. Deficient human resource management processes; inadequate management capability, accountability and

training; inadequate information exchange and co-ordination between the administration of various taxes levied; high incidences of corruption and corrupt practices; anti-business rules and regulations. I have also heard that the TTRA is designed to bring greater transparency, efficiency and effectiveness to the Board of Inland Revenue and Customs and Excise Division.

Mr. Vice-President, those were some of the same reasons advanced for the introduction of a number of authorities and the special purpose companies, such as WASA, HDC, Trinidad and Tobago Sport Company, the Airport Authority, the Police Service Bill, T&TEC, the Telecommunication Authority of Trinidad and Tobago, and never to be forgotten in this country, UDeCott. The population is quite aware of the history of these establishments. On television, the new chairman of WASA informed this country of the level of corruption there. We have been fully informed about the corruption at the HDC. We all know the cost of the flag acquired by the Trinidad and Tobago Sport Company and everyone knows about the questions which surround UDeCott.

To me, Mr. Vice-President, the real answer to a number of the questions and complaints that arose about the public service, is for Government to ensure that public service rules and regulations are amended. I have never been convinced that the efforts were made. To me, Governments, and I mean successive ones, always knew what was wrong, but what attempts have been made to revise the public service regulations? If for example, procedures for disciplinary action in the public service are too difficult, one could only blame the Government. I do not mean the present Government. I mean all the governments that ran this country.

The problem is these governments have not had the political will to address the problems of the public service. You are in charge, you look at matters to see what is wrong, and you bring them to the table. You know where the tables are, but enough has not been done to address the problems that might have affected the public service.

Mr. Vice-President, the dismantling of the public service is happening. It is happening right before our very eyes, but that is not the answer. Where is the public service reform that has been bandied about for so many years? What have the Ministers—and I said Ministers—of public administration done to clean up the public service? As a former public servant, I want to stress that the public service is necessary. It does not seem so these days, because every other day or every other month we have a new authority and some other new commission or whatever. The Public Service Commission was created to protect the rights of public servants from the whims and the fancies of politicians. It is there to ensure that public service appointments are made on an equitable basis, and not according to the

likes and dislikes of any Government Minister or the party that is in power. The public service is precious and we should keep it that way.

The introduction of these various authorities and special purpose companies—this includes the TTRA—is a major departure from the country's present system of governance which is based on a public service that is independent of direct political influence in appointments, to one, in which public servants are to become obligated to the party in power. Then, as a result, each time there is a change of Government, there will have to be a change of public service personnel because people tend to serve a god, and when that god is not there that person has to go, and new people have to come. We all know that appointments to special purpose public companies must be in agreement with Government's policy. Without a public service, there will be chaos. Then, why is the Government trying to eliminate the public service? I see the efforts as being one to eliminate the public service. Is it that the public service is an impediment to Government's plans, especially when it wants to cut corners and break rules and regulations?

The 1976 Constitution of Trinidad and Tobago makes elaborate arrangements for the public service, for its protection and operations. It provided for appointments, tenure, promotion, discipline and a host of other rights and responsibilities of the public servant. A social contract was established between the State and its citizens who were public servants. The Customs Division and the Board of Inland Revenue were part of this arrangement. How do we break this contract just like that? How can we consider breaking the contract just like that? How do we achieve the removal of a cadre of hundreds of public servants from their constitutional cocoon that they have enjoyed for years? How do we change what have become their legitimate expectations created when they joined the public service? Is it just by an ordinary Act of Parliament? Is it as simple as that? I do not think so, Mr. Vice-President.

I want to go a little nearer home and look at the implications for Tobago with regard to this authority. In the case of Tobago, this Parliament will have to decide whether it will give respect to its own laws. I looked at the THA Act and saw that this Parliament enacted it by section 25. It conferred on the Tobago House of Assembly, responsibility for a host of areas. Among these areas is finance, which includes the Board of Inland Revenue, and Customs and Excise. How does this new authority, the TTRA, impact on the Tobago House of Assembly's areas of responsibility? What are we, the residents of Tobago, to understand from what we hear about the TTRA, especially when we consider that special arrangements were made by this Parliament for responsibilities that come under Tobago?

Parliament is expected to be rational, structured, and most of all, obey its own laws and ensure their implementation. We, in Tobago, would like to know how we will be affected by the TTRA when these instructions are put in place for our guidance. One of my greatest concerns, Mr. Vice-President, is the implications for the affected workers. It seems to me as though their terms and conditions of service will be radically changed. I do not know how they will be able to stand up to the test of time. To me, they have been handled as CSEP (Compulsory Separation of Employment Package) and not VSEP—not voluntary. Their future work in life is uncertain. Their financial and the professional expectations, and the plans are thrown into disarray. Their union representation has been abolished.

Mr. Vice-President, how would the people who have been working as revenue officers and customs officers pay their mortgages which were planned for over a certain period? How are they going to feed their families? How are they going to take care of so many amenities that they must take care of, especially as I understand a number of them are husband and wife partners? So it is not only one member of the family affected, it will be two. You cannot use the CSEP or the VSEP, whatever money to pay off mortgages and so on. What happens after that? What happens to life after that?

If you were trained as a customs officer, when sent home, where would you find a job for which you were trained? I heard mention being made of people taking transfers from the Customs or Board of Inland Revenue over to the public service. We would like to see that happen because there will be problems as to what range you are going to take this person, or what job you can do when you are removed from this side to that side of the public service.

Mr. Vice-President, as far as I see, there is a strong scent of unfairness with regard to the revenue and customs officers. There is a strong scent of unfairness. I feel that they are unfairly treated and there will be a lot of problems. Should the TTRA come into effect? When the dust clears, will the citizens of Trinidad and Tobago be better off? Will the citizens of Tobago be in a better position than before the TTRA? Will we still have to operate under an archaic system of the recording ownership of land, or will it be computerized? Will we be able to pay our taxes online and search the records of the warden's office online? Will Tobagonians, and I stress, will Tobagonians have to send the land transactions to Trinidad for valuation? Will the owner's property tax be imposed on us even though our land titles have not been clarified?

3.30 p.m.

Will we Tobagonians still have to come to Trinidad to clear the majority of our goods or will we be able to do all in Tobago under the TTRA? With respect to the rest of the public service, it seems to me that the Government is bent on, and I make my own word here, "authoritizing" the entire public service: Immigration, Works and Transport, Legal Affairs, Agriculture, you name them. When will it end? Are we not learning lessons from those that went before, a great number of problems from all these authorities and special purpose companies? So many problems and we are still going deeper and deeper into breaking down the public service and forming these organizations.

Mr. Vice-President, as I would have indicated earlier, it takes a government with the political will to address the problems of the public service. I encourage the present Government to do this, rather than make authorities of all the various ministries. Soon we would have no public service in Trinidad and Tobago. In the end, we are only going to have new names. Somebody said new wine in old bottles; I say new names, but the same old khaki pants.

On behalf of the workers of the Board of Inland Revenue and customs, I ask the Government to look deeply into settling very carefully the matters that involve the workers of these public service organizations.

I thank you, Mr. Vice-President.

Sen. Wade Mark: Mr. Vice-President, we are dealing with a very important piece of legislation today. I am sure that the national community is somewhat disappointed at the very flippant approach, almost disinterest, that is being demonstrated by the other side in a matter that involves the livelihood of 2,000 or less employees and their families.

We are not surprised; the behaviour of this regime is noted and is not unexpected. Today we were presented with a Bill and the Minister refused to provide this honourable Senate with basic data, so we could properly understand and appreciate the implications of the legislation before us.

The Minister has referred to basic objectives of the proposed legislation such as efficiency, effectiveness and transparency, but at no point in time did the hon. Minister share projections with us and this honourable Senate. The Government is introducing a new governance model aimed, hopefully, at improving tax administration, tax management and seeking to improve, as they say, efficiency in that particular arena. One would have thought that the hon. Minister would have provided us with a detailed cost benefit analysis of this so-called model.

Out of the 50 countries, most of them located in East Africa, Central America, South America and some emerging independent countries in Eastern Europe, all of them were inspired to go that route as a result of supervision by the International Monetary Fund and the World Bank. We have a government wishing to pursue a particular model and the Minister is unable in her presentation to tell this honourable Parliament the pros and cons, as my colleague said. What are the costs and benefits of this particular approach that the Government is seeking to have us support? Nothing comes from the Minister's lips; she said in the course of the debate, but we have had five speakers so far or thereabouts. The Government has refused to enter the debate, so when are we to find out about the costs and the benefits; when you wind up, when the Minister is winding up?

We are asking the Minister of Finance to give us some projections. If you are introducing a new model and you claim that you are going to create more tax revenues from that arrangement, could you not tell us what the projected increase is? Is it 2 per cent, is it 3 per cent, is it 5 per cent? Tell us; but we are not getting anything from this Government. The reason we are not getting anything from this Government is because what they are seeking to impose on the nation, the workers and the citizenry, is what I call a Machiavellian form of privatization. They are trying to establish a vote bank. It is Machiavellian and it is a step towards privatization, not full-fledged or full blown, but they are going there in that direction.

Sen. Browne: You believe that too?

Sen. W. Mark: The Constitution of this Republic says if the Government wishes to alter section 121—if the Government is interested in altering section 54 which says that if you wish to alter sections 116 to 125, which includes the Public Service Commission, then the Government requires, not a three-fifths majority, but a two-thirds majority. This Government, in a very surreptitious style, is undermining the Constitution and they are seeking to use the Parliament to get rid of the Public Service Commission. The functions that they are seeking to give to this new authority involving workers who are currently members of the public service, is an affront to the Constitution of this Republic.

I believe that the Government is playing games with the rights of citizens of this country. *[Interruption]* "You doh have to worry, you know; you came for two years and you are going back to Barbados shortly, because the Prime Minister is about to set you up." *[Laughter]* But that is no problem; we will be lenient towards you.

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This is a sinister motive on the part of this Government and I will show that they have brought no arguments to justify this particular measure before us; none. They have not been able to convince us on the grounds of efficiency. They have not been able to convince us, and I will demonstrate to you that when it comes to tax to the gross domestic product (GDP) ratio, we are outstanding as a nation.

Sen. Browne: Agreed.

Sen. W. Mark: When it comes to tax administration in terms of collection and we are dealing with costs, we are outstanding and far ahead. So I would like to know why this Government is bringing legislation to this Parliament to dismantle two important institutions: VAT and the Board of Inland Revenue—they are already integrated—then you have Customs and Excise? Why are you seeking to destroy those two institutions? They cannot give you a plausible reason. It is purely political; this is political driven legislation.

The PNM wants to control every independent institution; they have been on a course, a march towards eroding our democratic institutions; and this is the final nail in the coffin of the public service of Trinidad and Tobago. In 1994 they destroyed the health services; they brought in the Regional Health Authorities, everybody on contract now; over 10,000 workers on contract. When they dissolved, as my friend said, the IDC, the EDC and the Tourism Board, what did they do? They removed all these workers from the SASC and made them contract workers in the Tourism Industrial Development Corporation (TIDCO). In less than five years, TIDCO disappeared and they brought in something called the Tourism Development Company and they brought something in called eTeck to replace IDC. They used the same argument that they are using today; it was supposed to create greater efficiency, efficacy and transparency. Where are we with those things?

This Government is playing games; they talk about these authorities. Do you know how these authorities come into being?

Sen. Browne: "How he know about games?"

Sen. W. Mark: Everything they cannot control, they seek to destroy. The Water and Sewerage Authority (WASA) was on an efficient line under this administration, when we were there. When they came, they destroyed WASA. [*Crosstalk*] Mr. Vice-President, WASA's debts today are much higher. Let me indicate to you that the current chairman of WASA, Sultan Khan, said that it is one of the most corrupt and inefficient organizations. You know who was a director of WASA for several years? The same gentleman you have as the interim Chairman

of the TTRA and who you have earmarked to take charge of that company. What was his role? What part did he play in the inefficiency and corruption at WASA? You must ask yourself that. You are indicating that you need to bring about greater efficiency in WASA today; that is the argument.

They got a Police Service Bill passed here; they got a new Police Service Commission passed here; what is the end result? That was since 2006, we are now in 2010, crime is almost uncontrollable in our country today. The Police Commissioner is supposed to have direct control over his men; to hire, to fire, to discipline and to promote; look at the state of the police service today.

The University of Trinidad and Tobago (UTT), another corrupt organization that they have established; T&TEC, where is the Attorney General, there is a whole corruption report on T&TEC. He has refused to table that report here. They create bodies or organizations: Trinidad and Tobago Sport Company, as example, and where are we in terms of change and advancement on behalf of the people of this country?

May I also inform you that based on the literature, and I would like the Minister to tell us otherwise, the targeted revenue for the Board of Inland Revenue to collect in different taxes: VAT, income tax, corporation tax, et cetera, could the Minister not provide us with a 10-year trend line from 2002 to now, how much they were supposed to collect and how much they collected.

Let us indicate to the country that the Board of Inland Revenue has not been doing its job and, therefore, there is a rationale for this particular model that you are seeking to advance.

But they tell us nothing and then they come here and say we must support this new measure. The research is showing, in terms of when we deal with the tax administration, as a cost, to collect \$100 in this country the BIR spends 65 cents, so in terms of the cost of collecting taxes in this country, we use \$100 as a benchmark; it cost them 65 cents. Do you know what it costs the United Kingdom? One pound.

Sen. Browne: What year was that for the 65 cents?

Sen. W. Mark: The US is 45 cents; Canada is \$1.22; Mauritius, \$1.63; Mexico, 95 cents; Peru, \$2.24. You have that information; it was in the fiscal reform, tax administration costs. It is a publication of the International Monetary Fund (IMF). You are supposed to be telling us that; you are supposed to be coming here to justify why you want to destroy the BIR when they are doing so well. What is the justification? It is purely political.

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The PNM wants to get control over 90 per cent of this country's revenues; that is what it is. At the same time, they want to destroy the Public Service Commission; that is what they want to do. Do not come and tell us, do not try to fool us and make the country believe that all is not well at the BIR, the VAT Office and Customs and Excise. We know that there are challenges, but the Government is blowing it out of proportion.

Let us know what the percentage of leakage is in the system. Is it \$1 billion? Is it \$2 billion? Is it \$5 billion? How will this particular model that you are seeking to impose, plug that hole and over what period of time? You bring no statistics, no data; you cannot convince us of why you want to go that route, and you want us, as lawmakers, to support that legislation? Are we fools? No, no, no; you must bring hard data.

3.50 p.m.

Mr. Vice-President, when you look at tax to GDP ratio as an example again, many countries, based on research we have done, revealed that even though in the initial period of these revenue authorities—after a while what you have is a decline in the percentage of tax to GDP. It starts off good and then corruption steps in and it begins to decline.

I have information from a PhD person, his doctorate was on the question of these revenue authorities.

Hon. Senator: What name?

Sen. W. Mark: A Spanish name T-A-L-L-E-R-C-I-O, a PhD dissertation and he was able to show whether it is in Bolivia where they established this same revenue authority, it increased by 70 per cent after its creation so that was a positive in Bolivia. But what was the situation in Argentina? When that was established, it dipped from 13 per cent, and then it went to 8 per cent, then 14 per cent and then 13 per cent. What it is showing is that you have a rise and a decline.

In Peru there is a similar situation taking place; in Colombia, no change from the time it started to the 1999 period, flat 10 per cent and you go to Mexico and the experience is the same. Ghana seems to have some balance and so does Uganda, but when it came to Tanzania, there was the same thing; a rise of 11 per cent in terms of tax to GDP ratio and then it declined to less than 10 per cent. In South Africa and Rwanda it is almost a similar experience.

Mr. Vice-President, the literature is showing that the evidence is inconclusive whether the establishment of a revenue authority is going to lead to better revenue

administration performance compared to what we have at this time; that is departments or divisions within the Ministry of Finance.

So the jury is out on this matter. Why are we pursuing this matter? Mr. Vice-President, we are saying to the Government of Trinidad and Tobago that it has to be a little more careful when dealing with people's moneys, 90 per cent and above of our revenue is under the control of the Board of Inland Revenue (BIR), the VAT administration and the Customs and Excise Division.

I have seen articles in the newspapers where Ministers—it is in a story in the *Bomb* on February 24, 2010, where it says and the author is Erasmus Greaves, a retired customs officer from Chaguanas and the headline is "Ministers who evade paying taxes". There are Ministers in this administration and I have their names and they engage in tax evasion and the customs officer exposed them. So you come here crying hypocritical tears, crocodile tears and you are almost the ring leader in this corruption charge that you are charging. You are saying tax evasion, tax avoidance, under invoicing, over invoicing, those are what are causing the problem. And as Sen. Ramkhelawan said: Where is the evidence? Who have been charged and convicted in terms of corruption? You have no evidence before us of how many public officers have been caught in corrupt activities, but you come here with legislation telling us that we must throw away the baby with the bath water because the Prime Minister cannot have control over the revenue authorities? And you want us to support that?

You have made no argument, you are incompetent as a Minister as far as I am concerned, you have come today and brought no data to support your arguments and you have just raced through your presentation, and at the end of the day, you have not convinced anybody on this side of the cause.

Sen. Lezama: Mr. Vice-President, on a point of order. Standing Order No. 35(4):

"It shall be out of order to use offensive or insulting language about Members of either Chamber."

And the other one is the conduct of Members of the Senate, Standing Order No. 35(8) which says:

"The conduct of the President...Members of the Senate or the House of Representatives... shall not be raised except upon a substantive motion..."

He is using "insultive" language against the Member, and he gets away with it too frequently, Mr. Vice-President. It is unacceptable, and he needs to maintain standards in this House.

Mr. Vice-President: Senator, I do not think he singled out any particular—

Sen. Browne: He did, he did, he did.

Hon. Nunez-Tesheira: He did, he said I am incompetent.

Sen. Assam: But incompetent is not an “insultive” word in Parliament. Have you ever been to the House of Commons in England?

Sen. Browne: No.

Sen. Assam: You should go. The word "incompetent" is used all the time.

Mr. Vice-President: Excuse me, Senators. Sen. Mark, please continue.

Sen. W. Mark: Thank you, Mr. Vice-President. It is our view that this legislation is not going to create greater efficiency. We believe it is a straight case of old wine in new bottle but no change in the flavour or taste.

We want to know—given the experience of UDeCott and the corruption and the millions and hundreds of millions of dollars that have been misappropriated—if this is not going to be another UDeCott in the making. Where are the checks and balances in this legislation to avoid runaway "UDEcotts" from emerging again?

Where are the rules and regulations? Mr. Vice-President, the Minister wants to make rules and regulations outside the ambit of this Parliament. We want to serve notice on you, Minister, that you are not going to make any regulations to govern that body unless it has been here and it has been affirmed, so we are telling you that one time. It must be subject to an affirmative resolution.

We want to know how will this new model increase revenue collection in Trinidad and Tobago? Tell us how it will be different from the BIR and the Customs and Excise Division. We also want to know what is preventing the BIR and the customs from doing its work to accomplish the same objectives? I have asked the Minister and I want to ask her again, by how much does the Government expect revenue to increase? By what percentage? Tell us! By 2 per cent, 3 per cent, what? [*Interruption*] She has not answered, and I want her to answer that for me.

Mr. Vice-President, when we look at this legislation before us, the first area we would like to address in terms of the legislation specifically is to make it very clear that the composition of the board leaves a lot to be desired, and we are going to be making an amendment to this entire section. We are not in favour of any Cabinet or any Prime Minister appointing the board of this authority.

We are going with the President of the Republic on the joint advice of the Leader of the Opposition and the Prime Minister. We want this thing to be transparent, we want equity and balance in this matter and if you put that CEO on the board, he must not have the right to vote. We will see to that in the legislation.

Mr. President, we also want to indicate to the Government that if it wants to establish a board, you should have a secretary. There is no provision in the legislation for a secretary, so we will provide one for you.

Mr. Vice-President, why, if we are seeking to establish a board we do not have a tripartite approach like the national insurance arrangement where you have Government, business and labour? What is the role of labour here? This Government is so hostile against the labour movement and particularly this Minister. I have never seen a Minister so hostile to the trade union movement and the working people of this country as this Minister here.

She brings a false document to this Parliament. I spoke to the President of the PSA and he told me that document the Minister presented here today was torn up by him and the members of the PSA. They have burnt the paper, they dumped it and she comes here today, misled this Parliament and said this is a tentative agreement and put it in the record of Parliament to present areas of agreement when she knew that the document was destroyed.

Hon. Nunez-Tesheira: Mr. Vice-President, on a point of order, he is absolutely misrepresenting the facts. The document that I brought here was the one I was given consequent on a decision made and negotiations that continued up to this morning and it is not the document of which he is speaking, a document that actually is almost similar and almost identical to the document that I brought this morning. But in any event, he is misrepresenting the truth, that document that I brought is not the document of which he spoke, it is a different document.

Do you know why I am saying this because—

Sen. W. Mark: I want to challenge you that—

Mr. Vice-President: Sen. Mark, the Minister is still on her feet. Two of you cannot be standing at the same time.

Sen. W. Mark: I challenge you to bring that document and then we would make the comparison and then I would take her to the Committee of Privileges for misleading the Parliament. We have them!

Mr. Vice-President: Again you have made the statement "misleading the Parliament". You have no proof that she has misled the Parliament. She has

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offered an explanation and I beg you to refrain yourself from saying that the Minister has misled the Parliament.

Hon. Nunez-Tesheira: And apologize.

Mr. Vice-President: So could you withdraw that statement, please?

Sen. W. Mark: Withdraw what? That she misled?

Mr. Vice-President: Yes.

Sen. W. Mark: All right, for you, Sir because I want to battle in Arima, so I would withdraw it.

Sen. Dr. Saith: You could battle anybody?

Sen. W. Mark: I call on you, hon. Minister, to circulate that document and then we will compare both, Mr. Vice-President, and bring them to your attention. [*Crosstalk*]

Mr. Vice-President, this hon. Minister who is hostile to the workers, I have seen it. The reason Sen. Dr. Saith and others have to go behind the scene to rescue this situation, to avoid this Government from being defeated this evening if they pursue this matter, is because of that hostility on the part of this Minister. But we are waiting for her; you go in that place called D'Abadie/O'Meara, that is the end of you. [*Crosstalk*] "No Prime Minister will protect yuh this time, nah." We are going to put Penelope Beckles against you. "All yuh want to replace Penny from Arima with Laurel, ah going to put Beckles against you." [*Crosstalk*]

Mr. Vice-President, when we look at the Bill we are seeing where we are going to make an amendment to clause 12 because we reject the provision in its current form and we are going to circulate an appropriate amendment.

4.05 p.m.

We are also going to amend clauses 13 and 14 to ensure that this Chief Executive Officer—how it is couched, we want to address that as well. In terms of the staff in clause 16, may I inform this Minister we intend to put the three options.

I have a document which was given to me by the PSA and this document contains all the activities surrounding this particular body, from its inception in March of 2002 to the present time; all the commitments that the Government gave and its betrayal. In this document we have outlined the three options that were in the first Bill that was circulated to the PSA. We are going to put amendments to

have those three options reintroduced into this legislation and we "ain't" want no promises from no Minister; we want no agreement from you; we want it in the legislation and we are going to ensure that the Government puts it into the legislation.

I also want to advise this Minister that your Government, in 1994 the RHAs, they ensured that there was successorship in terms of the NUGFW and later the PSA; in the Civil Aviation Authority, which was a division when it became an Authority, they also ensured successorship in terms of the PSA, and in the case of the HDC, they also enshrined into that legislation, successorship. We are saying, we want to maintain equity and justice and, therefore, we are moving an amendment to this legislation consistent with what you did in the Civil Aviation Authority Bill, which is now an Act, to make sure that the union has successorship.

You could vote against it. You, Dr. Saith, and the rest of you, could vote against it, but we are going to ensure that the PSA—

Mr. Vice-President: Senator, again, you are an experienced Senator. We call Members of this House by their titles. Okay?

Sen. W. Mark: Yes, I agree, Sir. Forgive me, Sir. The Hon. Lenny Saith, Sir.

Mr. Vice-President: Hon. Minister.

Sen. W. Mark: Hon. Minister, Dr. Lenny Saith, Sir. I stand corrected, Sir.

So we are not going to be mamagued by this Minister or that side. We are here to protect the interests of the poor, the downtrodden, the oppressed and exploited people of this country and the workers of this country. There is a trade union right now in the BIR and in Customs and Excise; it is our responsibility to be consistent with government policy and the Government's policy in these three pieces of legislation is to ensure there is successorship and we are going to put the same wording that you put in the year 2001 when you established the Civil Aviation Authority in 2001/2002. So I want to see you vote against your own policy, Minister of Finance.

Why are you against the trade union? Why do you not want them to be there? Why? Why are you against the poor? Why? And you want to call a general election on Friday? But I hear it is a bluff, you know. They are going to call a meeting in Woodford Square. They want to get out of it. Is blows! Ninety-two per cent of the people say "all yuh is goners". "All yuh gone already." So "doh go and call elections, nuh." Karen, you want to continue as Minister?

Hon. Nunez-Tesheira: You heard the ruling—

Sen. W. Mark: The hon. Minister of Finance, Sir.

Hon. Nunez-Tesheira: Have respect. Have some respect.

Sen. W. Mark: Mr. President, we go to clause 16. We are going to amend clause 16. We do not want the Minister to appoint the Chief Executive Officer and we are going to make the appropriate amendment to ensure that the board does that. We do not want the Minister to appoint the CEO and we do not want the Minister to appoint the Deputy CEO either. So we are going to make the appropriate amendment.

We are seeing a conflict between the board and the authority in clause 17(2) and we intend to make an appropriate amendment in that regard. When we go to clause 18 there are some vague words there, like "unable"; we are going to remove that and replace it. Where you have "discredits", we are going to remove that and replace it.

We reject completely under clause 19(h), "for any other sufficient cause". No, not in legislation; not here, Sir. We are here to ensure that there is justice and fair play for everyone. Clause 21 is a recipe for large scale corruption and nepotism. We are not going to facilitate that. We would like to know what is the role of the Central Tenders Board in this whole matter. You know the whole issue of procurement in the Uff Commission Report, you know the battle that came out of that particular struggle and the recommendations, and here you have a government coming—imagine under clause 27 of this Bill they are exempting the Central Tenders Board. We cannot be in support of that.

Hear what it says in clause 21:

"The Authority may enter into contracts for services with persons for the performance of such tasks that the Authority considers necessary for the performance—

And they have the power. They did not give you any stipulation. This is going to be another UDeCott. RuDecott, UDeCott, and you want us to support this? The Government cannot be serious about this.

I also would like to know in clause 23(3)(a), the expenses incurred in carrying out the functions of the Authority. I would like to ask who will meet the expenses of the particular Authority. Where are the expenses to come from? Who will pay for it? We have not seen that here.

In clause 25 we are seeing where:

"All public moneys collected by the Chief Executive Officer under the revenue laws shall be paid into the Exchequer account at such times and in such manner as the Minister may direct."

That is not in the current legislation and we have a little worry about a Minister of Finance directing somebody, when you collect the taxpayers' money, you are going to deposit it into the Exchequer Account at such times and in such manner as the Minister may direct. We think this is contrary to the existing arrangements. It is my understanding that the current arrangement is as follows: when moneys are collected by the revenue officers, those moneys are deposited or they are paid to the Chairman of the Board of Inland Revenue who, in turn, deposits same into the bank and the bank will deposit same into the Consolidated Fund. There is nothing like the Minister having any power to determine.

I want to read this again:

"All public moneys collected by the Chief Executive Officer under the revenue laws shall be paid into the Exchequer Account at such times and in such manner as the Minister may direct."

What is the role of the Minister in directing how our money is deposited? So do you know what? We are deleting "at such times and in such manner as the Minister may direct." We put a full-stop after "the Exchequer Account" consistent with the current reality. The Exchequer and Audit Act applies to the Authority.

It goes on to say:

"The Chief Executive Officer shall be a receiver of revenue for the purposes of the Exchequer and Audit Act."

If this Chief Executive Officer is being appointed by the Minister and he is going to be fired by the Minister, my understanding of the law and the Exchequer and Audit Act, is that any receiver of government revenues must be a state employee and cannot be an employee on contract and from what we are reading here, if this person is going to be hired by the Minister of Finance and fired by the Minister of Finance, we have concluded that that person is not a public officer.

I would like the Minister to rise to her feet and tell this Parliament whether the Chief Executive Officer is going to be a public officer and if that person is not to be a public officer, you are violating the Exchequer and Audit Act. That person, as I understand it, must come from the State through the Public Service Commission.

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So I want to advise this Government, the course that you are on right now is a dangerous one and you are violating the Exchequer and Audit Act and we are saying to the Minister of Finance, you have to review this matter.

Mr. Vice-President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. S. Rambachan*]

Question put and agreed to.

Sen. W. Mark: Thank you very much, Mr. Vice-President. We go to clause 27. Rules made under subclause (2) reads:

"The Corporation shall follow the procedures detailed in the Central Tenders Board Act."

That is in the interim. Later on they will have the power to make their own rules, like UDeCott under Calder Hart. But do you know what this Minister wants us to do? They want to make rules subject to a negative resolution. We have had enough of Calder Harts in this country and, therefore, we are calling on the Minister and the Government, not for a negative resolution when coming to rules for tendering procedures; it must be debated in this House.

Therefore, we are calling on the Minister to have an affirmative resolution and we are going to make amendments and have them circulated accordingly to have that enshrined in the legislation.

We have also noted that the Minister, in clause 39:

"...may make regulations prescribing anything necessary or convenient for carrying out or giving effect to this Act."

This Government cannot be trusted and, therefore, we are saying that we are going to amend clause 39 to read:

"The Minister may make regulations subject to an affirmative resolution of the Parliament."

Go right ahead and make regulations, but those regulations must be subject to an affirmative resolution of the Parliament.

"The Minister may amend the Schedule by Order."

I want to tell you, we have a Schedule with about close to 20 laws and this Minister is seeking to have power to amend the Schedule by order? No, you

cannot amend that by order. You are going to amend that by an order but it must be subject to an affirmative resolution of the Parliament.

4.20 p.m.

We do not support the Minister of Finance or any other Minister having that kind of blanket power. This Bill is about total control by this Government. It has embarked on a course of controlling all our institutions. It is a one-man show. If you look at the draft Constitution, you will see the one-man show continuing.

This Bill is a desire for absolute control. Do you know what it is also about that we have not focused on? His Excellency the President made a statement which was circulated in this Parliament at the start of this new session. I quote:

"I dare say the answer hardly lies in doing away with permanent pensionable posts, however attractive or expedient that may seem and for whatever reason."

Do you know what he was talking about? He is talking about this Government's systematic dismantling, demolition and deformation of pensionable posts in the public service. This Government is about getting rid of its pension liability to the people who work in the public service. The Government intends to get rid of all the institutions in the public service in order to escape its obligations to pensions. The President of this Republic warned you not to go down that route.

They are on pauperization of the people; contracting out jobs; abolishing pensionable posts and privatizing the public service. We must not sit in this Parliament and facilitate that sinister objective and agenda. We must never be party to the undermining of our independent institutions. This is what the Government is about. It is about undermining the Public Service Commission and destroying the public service and we will not be party to that.

Mr. Vice-President, may I remind you that tax and customs laws are the most intrusive powers of the State. Hence, we need to have these organizations remain within the public sector.

Mr. Vice-President, do you know about the enforcement authority of customs officers? Customs officers have a lot of powers and you are going to put that in the hands of the Cabinet? How can you put that in the hands of a Prime Minister who has proven over and over again to abuse his power and authority?

The customs officer, through the comptroller can apply to the High Court to issue him with a writ of assistance which can continue in force until cancelled by

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the High Court. It tells you the power of the Comptroller of Customs and Excise and his officers. How are you going to transfer this power? Who will take this power over? We must put that in the hands of the PNM Cabinet and the Prime Minister?

Sen. Dr. Saith: What about a UNC Cabinet?

Sen. W Mark: We gave a commitment. You see all that you are doing; we will do exactly what my hon. colleague said. Process. Consult with the people and give them the pros and the cons and discuss the final outcome; not impose your will on the people. That is what the Minister of Finance has done.

Tax and customs laws are the most intrusive powers of the State. There is need for these organizations always to remain public institutions. The Board of Inland Revenue, the Customs and Excise Division and the VAT Administration must remain public institutions. We do not want them to be privatized. We do not want them to become statutory boards or authorities. We do not want the Minister to appoint the CEO.

Right now the Minister does not appoint the chairman. The Prime Minister, under the Constitution approves the commissioners and the chairman by extension. When the Prime Minister does that, he does not come back into the picture. Do you know what happens with this legislation? When the CEO is appointed by the Minister, the Minister has the CEO in her back pocket and can fire him when she wants.

This Minister, or any other Minister, should not have that power. We maintain that the Public Service Commission should be the buffer zone between public officers and the politicians. We do not believe politicians should intrude in the affairs of the public service.

We need to be convinced. We ask the Minister, when she is winding up, to tell us whether there has been any feasibility study; any cost benefit analysis done by this administration in bringing this legislation.

Research has shown that there exists difficulty in properly evaluating the impact of this so-called revenue model insofar as performance is concerned. There is almost inconclusive evidence on this matter. Why did we decide to pursue that particular course? Could we not reform?

I was shocked when my hon. colleague—I congratulate him on his wonderful contribution—Sen. Christopher Joefield, when he said that there were close to 200 vacant positions in the Customs and Excise Division, 30 per cent.

In the Board of Inland Revenue, there are also a lot of vacancies. Why is the Government allowing this? Do you know what he also told us? In the Immigration Department, they have increased the number of positions by over 300 in a short space of time. So if the Government wants to improve the efficiency, efficacy and transparency at the level of the Board of Inland Revenue and Customs and Excise, they can do it. Their agenda is evil. They are politically driven. They want total and absolute control so that they can hire their friends and families and they want us to give them that power. That and God face they will never see. I warn them today that if by chance they happen to pass this legislation—

Sen. Dr. Saith: [*Inaudible*]

Sen. W Mark: No, the people will deal with you. I know you are trying very hard, but you are experiencing resistance. We would like to work with you, Sen. The Hon. Mariano Browne, to make sure that there is justice, balance, fairness and equity. We want to reach out to you, but we cannot stand idly by and allow you to rape the rights of the working class and the trade unions of this country.

That is why we say that we will circulate to you shortly comprehensive amendments to deal with the three options and to enshrine into this law the right to successorship. That is what we want you to consider. There are other amendments, as I said, that we will look at.

We are happy to contribute to this Bill. We would want to work with the Government to ensure that we have a strong Revenue Authority. We do not like it, but if it comes and we have to support it, we will do what we have to. It is important that we safeguard the rights of the citizens, the workers and the trade union and we protect the public purse. Once we get those guarantees, we can work together as a family to move the process forward.

Mr. Vice-President, thank you very much.

4.31 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

[MR. PRESIDENT *in the Chair*]

Sen. Helen Drayton: Mr. President, thank you. I will go straight to the heart of the matter. There is no question in my mind that a new corporate entity is required with respect to revenue collection and other matters, and this is due to the inefficiencies in the governance and operations of Inland Revenue, similarly

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in the Customs and Excise Division; with the implementation of the new legislation on Property Tax; implementation of legislation with respect to the IFC, anti-terrorism, money laundering and, of course, national security as it relates to border control. So far we have been speaking all along about this institution or this proposed institution in light of the need for efficiency in revenue via the tax system, but this is not an institution that is dealing solely with revenue, and it has serious implications for the country at large and the entire financial and business systems.

The TTRA will be responsible for the collection of 95 per cent of Government's revenue—an efficient, effective and viable system of operation—I do not think that is something that can be overemphasized. I would, therefore, commend the Government on this initiative. In fact, it is an initiative that is long overdue, but I would temper that commendation, because of several concerns that I have with the proposed legislation.

Now, I would limit my contribution to the proposed legislation in the context of its ability to facilitate effective governance; to facilitate transparency and balance that with the need for confidentiality of citizens' information; its ability to minimize the risk of corruption; the risk of politicizing a critical arm of national operations; and, of course, to say a brief word with respect to industrial relations matters as these pertain to the legislation; the recruitment, training and the development of staff.

So, while I endorse the need for the TTRA, I have to say that I am disappointed with aspects of the legislation which, I think, shows a lack of analytical thought, initiative and innovation that should have informed legislation necessary to underpin efficiency in an organization such as the TTRA.

In fact, to say the least, weak legislation can, in fact, undermine the very potential to achieve the goals of good governance and efficiency of operations. This is an institution that will affect every single citizen, and to start off on a solid footing is necessary in order to ensure that we have credibility from the outset.

Mr. President, in fact, what do we have? We have legislation with features of cut and paste from outdated material. Time and time again, we have seen such documents coming to this honourable Senate. I have to say that it is difficult for me to accept any longer that it is just a question of drafting. I am more inclined to believe that it is a lack of direction to the drafters, or it may well be a question of skilled expertise, and one could put that down to competence issues or legislation that is so weak that it avoids the very systems of transparency and control or it could be a combination of all these factors.

What other perception can one really have when basic deadlines should be in this legislation with respect to the submission of something as important as audited accounts? The chief executive officer is apparently accountable to no one other than the Minister with respect to core functions of the TTRA. It is said in this legislation that the CEO is responsible for revenue collection and the enforcement of revenue laws, yet the board will be making and implementing policies with respect to the core functions. The board is expected to ensure good governance, and I do not quite understand the relationship between the board and the CEO.

Now, I understand the need for the board to have a distance from client information with respect to tax. I understand that. I do not think that you can create a board, give the board functions for governance and for efficiency of operations and, in fact, apparently it has no control whatsoever over operations with respect to the core functions of the TTRA.

Clause 19 states—and here we go again, and this is why I refer to the cut and paste—that the Minister may remove the CEO or deputy CEO for grave reasons such as unable to perform functions of office; discredits the authority; declared or becomes bankrupt and, yet, we were told in previous debates in this place that the word "may" was reserved for the President, to give the President discretion, yet we are now giving the Minister, and by virtue of that Cabinet, discretion when, in fact, if any member of the board or senior management is guilty of any one of those things, it is not a question of "may", but it is a question that they ought to be removed and removed immediately.

In addition to that, if we are to learn the lessons of the recent past, then if any member of the board is guilty or can be accused of any one of these criteria stated in this legislation and there is an investigation, then somewhere in this legislation—having learnt the lessons the hard way from the recent past—if you are under investigation, at that level, you should be suspended pending the outcome of investigations, particularly when you are dealing with an Inland Revenue. So, we bring legislation and we are not learning from the mistakes and conduct of the recent past. So, I fully support the principle of the TTRA. I do expect that concerns in that regard will be taken seriously on board when we reach the committee stage.

The legislation says under clause 10(2):

“A member is not liable for breach of duty under subsection (1) if the member relies, in good faith, on—

- (a) the financial statements of the Authority represented in a written report by the Auditor General or...”

someone in the authority authorized to sign off on those accounts.

Mr. President, if a board cannot look at financial information and detect errors, issues or raise queries, then what is the purpose of a board of governance? So what I am seeing again is legislation which continuously absolves or is intent to absolve management from accountability for not only mischief, but serious errors. So I have a serious problem with this. If you are a board, then do not tell me that you have to rely on someone with respect to the accounts, and you cannot read those accounts and make a decision out of that. The board in its own right should be able to do that.

Let me deal with the issue of the Auditor General. How many times have we heard in this Senate that accounts are stuck for more months after submission by the statutory authorities and government departments, if not years? So, we bring legislation to establish this grand institution. We say that its purpose is good governance; it is for efficiency of operations. Now, governance would imply systems of control; systems of review; and systems of monitoring, but if you are not going to have audited accounts or you cannot guarantee that you are going to get audited accounts within a three-month time frame after the end of the year, then what is governance all about?

I have to ask the question: Where is the annual report for UDeCott for the last three years? If we had that, then it is also a check in terms of management. I cannot accept the legislation that simply leaves it open and relies on the Auditor General where the excuse perpetually has been a shortage of staff. That has been going on for the past four decades, so it is not an excuse that could be accepted any longer. I do not think that given all that has happened in recent times, we can be expected to accept this.

I believe that the TTRA must submit quarterly management accounts, which are not audited accounts. If management accounts are done properly and there is a proper operations report and it is submitted to the Minister and laid in Parliament, there is a check and balance. Now, I do not care how or when the Minister gets the report, but that report should be laid in Parliament where there could be some sort of oversight, at least a month after the end of any given quarter, and with an annual report, no later than three to four months after the end of the financial year. If you are doing quarterly management accounts, it facilitates timely delivery of your audited annual accounts, and that is proper management; that is proper

governance; and this legislation has failed to recognize that. So we are bringing an authority to effect good governance and we are bringing the legislation that actually supports the status quo.

I too made note of the secretary to the board and the appointment of the secretary to the board. A secretary is a very important person; a bedrock when it comes to efficiency of your board. So that it really has been treated in a *vaille que vaille* manner in the legislation, as if it is you are taking an employee from the staff to keep minutes. If we are speaking of a duty of care, then we need legislation and we need to have the necessary instruments that would support that. A corporate secretary with a strong legal background would facilitate the board in untold ways and also provide timely in-house counsel and advice. So that the way it is treated in this legislation is not acceptable.

Now, clause 17(1)(a) says:

“The Chief Executive Officer shall be responsible for—

(a) the daily management and direction of the administration of the authority.”

I would have thought that it is the board that gives direction. So, I am assuming that this direction is with respect to administration as it relates to the collection of taxes and enforcement of revenue laws, but this should not be left to assumption.

5.15 p.m.

So it cannot be a question of general direction. Then you have clause 17(1)(c), and I do not know how this impacts the functions of the board, if the CEO can advise on his own initiative or at the request of the Minister on any matter that could affect public policy, what is the role of the board, and any other matter that the Minister considers could improve—you know what I am seeing here? I am sorry to say, I am seeing a Calder Hart; a law unto himself; no respect or relationship to the board; taking instructions from the Minister with no checks and balances. This is not acceptable.

Sen. Mark made reference to clause 25 with respect to the payment of revenues in such a manner as the Minister may direct—I am looking at the old legislation—this bothers me as well and I think the Minister needs to clarify that matter because I think the manner in which revenues are paid into the Exchequer Account should be steady state to facilitate proper governance. It cannot be in such a manner at any point in time as somebody may direct, so I have an issue with that.

Now, the Central Tenders Board, clause 27(1) is a serious concern, again, because of recent situations. It is not so much because it will exempt the TTRA from the Central Tenders Board, but because like UDeCott and other special purpose companies, it would be making rules to govern and conduct the award of tenders and related matters outside of a proper control.

When you consider that the Government has 46 fully owned subsidiaries and their 27 subsidiaries, eight additional state enterprises that were incorporated in 2009, that this is a very small country and it is not practical, it is not prudent either to have a situation where every department and every company owned by the Corporation Sole or in which it has a majority interest should be left on its own, to come up with tenders rules only on guidelines. How do you, in an overarching way, monitor, control and take necessary measures if things are going wrong?

The country is too small for that, but I understand the need where you have a country on a rapid development path, you need a certain amount of flexibility. But that does not preclude a procurement procedure that will be efficient and effective. So it is a situation that warrants attention to avoid the pitfalls that we have witnessed, and I think that it is an unacceptable situation, given all that has happened, it is also unfair to bring legislation to us that asks us to accept such a procedure when you are speaking about corporate governance, efficiency of operations, value and things like that.

The other thing I cannot understand, and that is, why must there be a prescribed fee for copy of the rules of your tender procedure. I do not like this at all, because it gives the wrong impression. It gives the impression that really, you want a deterrent to anybody requesting a copy. It gives a deterrent to transparency, so I take issue with that. I see no reason why you should be charging a fee to any citizen who wants a copy of your procurement procedures.

With respect to the submission of a strategic plan and the income and expenditure annually, clause 29:

“The Board shall prepare and submit annually to the Minister a strategic plan for the Authority.”

I am suggesting an amendment, “No later than three months before the commencement of the financial year.” Why am I suggesting that 29(c) be amended accordingly? Well, when you read clause 30, it states that:

“In respect of each financial year, the Board shall prepare and submit to the Minister estimates of the Authority’s—

- (a) estimated income, if any, arising from any source; and
- (b) expected expenditure,
no later than three months...”

So you really cannot come up with meaningful estimates unless you are coming up with it within the framework of a plan. So it stands to reason that the strategic plan, there must be a time frame on that as well.

Now, I made mention of the quarterly management accounts which are in keeping with good and effective modern day management practices in both public and private sector institutions universally, and I will be circularizing such an amendment. I am also indicating that those management accounts must be laid in Parliament at the end of every quarter, because this is one way of putting in controls with respect to the authority.

With respect to the corporate structure—and again the Minister would lend some clarity here—there is a deputy CEO, I am not quite sure what is the role of the deputy CEO. But if we set aside activities of the TTRA with respect to the IFC, antiterrorism, money laundering, border control and things like that and just deal with the two main arms, which are the revenue collection and your customs operations—

Now, there are two different elements of the value chain there: One places emphasis on revenue collection and the other, it is not only revenue collection, the value chain there is service, and if you confuse the two—remember customs facilitate business—it facilitates business, therefore, its value chain is service quality and you cannot mix up the two. So I would have thought that the customs is so important that it would be a deputy CEO that is dealing with the day-to-day operations and ensuring service to its customers.

I will touch quickly on mitigating risk of corruption, internal auditor and the whistle-blowing policy. I am not seeing reference in the legislation to an internal auditor. I assume the position is there. Words about good governance are mere words if not backed up by meaningful policies and strategies.

The TTRA must have an internal auditor with a fair amount of independence given the structure that is being proposed in this legislation, where reality is, outside of the Minister there are no systems to monitor and control. Now, this person should not report to the CEO, neither should the person report to the board. There should be no interference with the work of the internal auditor. So what is lacking in this structure—you have a board of management, call it your board of

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commissioners—is an independent governance committee, and that again is a feature of effective organizations that believe in transparency and accountability.

So what I would recommend here—I am not necessarily sending an amendment on this, but I am putting it there for serious consideration, that there should be an independent governance committee, say about three persons, with the necessary qualifications, legal, accounting, corporate operations who are appointed by the President in his sole discretion. The auditor reports to that committee. That committee receives copies of the management accounts and audited accounts. They have the powers to trigger an investigation based on an internal auditor report, and this is bringing systems of control into this legislation.

This committee might be meeting once a quarter. It really has no relationship with the board, the Minister or anyone in there. It is really and truly broad oversight. It is fairly independent and it is the entity where you need to place a whistle-blowing policy in the TTRA. And if you had such a policy all the allegations of corruption, particularly in customs, where you hear businessmen say that “to clear my cargo you pay me”. Now, if they do not, it stays there for six weeks. If that businessman could channel into a governance committee via a whistle-blowing system, then you can set up your necessary measures to zero in on those persons and take the necessary action. And through the work of this committee it can also send information to the Integrity Commission to do investigations and the Integrity Commission in turn can go straight to the DPP.

If we are serious about corporate governance; if we are serious about accountability, transparency and mitigating incidents of corruption, then we need a structure relative to this organization that would assist with that. So this internal auditor would have fairly good powers pretty similar, not as wide ranging as say, an inspector in the Central Bank, but sufficiently powerful to be able to get records at will, from the CEO, from the board and take the necessary measures. So that outside of such a governance (committee) structure there could be only one other structure and that is a Standing Committee of Parliament, preferably chaired by an Independent Senator that meets quarterly and receives those accounts. It is the only other structure that could assist.

But I think that the governance committee that is independent and appointed by the President in his sole discretion is a very viable system, because it can operate with a mandate, simply to ensure that no mischief is taking place.

With respect to industrial relations: While I share concerns with respect to how the industrial relations has been handled by both sides—I make no excuse for

any—what is happening or what has happened, is we have a situation where it is alleged that the vast majority of staff were asked to go through a procedure because of alleged corruption as well as the fact that it is recognized, given its expanded role of the IFC with anti-terrorism, money laundering, border control, that obviously you need different skill sets as well.

But having said that, what is in front of me is legislation to establish an institution, and this matter should have long been taken to the Industrial Court. If the union had a problem and the employees had a problem, there is a system. There is due process to be followed. So all the union had to do was to go to the Ministry with an industrial dispute, specifically as it relates to the security of jobs for employees, and if it failed there then let it go to the Industrial Court.

I am afraid that Parliament is not the place to settle an industrial relations dispute. That is the role of the union. This is the role of the Public Service Commission or whoever it is, and there is an Industrial Court to do that. That is what facilitates due process and that is what we are called upon to do as professionals when we represent people; to represent people, to represent employees and represent our clients in a matter that is consistent with the laws of the land. I believe in fairness and justice. I also believe that the entire public should not be held to ransom at the drop of a hat with disruptive days of rest and the attendant cost to the business community, their customers and other employees, all of whom are already under siege. The climate is already not conducive to business, and in the short run, every citizen will pay, which is untenable.

5.30 p.m.

This is a matter that could have been settled differently, and let us respect and understand, and let us have a certain amount of maturity that you would never get 100 per cent of what you want if negotiations are satisfactory. So when I heard Sen. Assam make reference to process and the culture of unrest, and the culture of protest, then the culture of protest has more to do with entrenched indiscipline, as well as culture of dependency that has bred what I heard my colleague say, learned helplessness.

So you always have to rely on a ramping and a raging, break down the place, throw dust in their face to get what you want. In other words, you behave like the child. Further, it is time we stop the lying to our children. For every time mummy and daddy say that they are taking a day of rest to reflect, in fact they are striking and they are taking industrial action. That is the culture of indiscipline. That is the culture we are breeding of violence—*[Interruption]*

Sen. Browne: There is your answer. You know that.

Sen. H. Drayton:—of contempt for the rule of law. So I have a serious problem with that. There is a process for industrial relations and we all know that strike action is legitimate, but it is legitimate in context. We have to stop holding the entire country to ransom.

Sen. Dr. Dick-Forde: I agree with that.

Sen. H. Drayton: The gangs with their guns are already doing that. The kidnappers are already doing that. We do not need adults who ought to be responsible and who know about industrial laws to add to that.

Mr. President, I have no hesitation in saying again, that I support this initiative. I am asking the Government to take serious consideration with respect to the severe weaknesses of governance. I really believe that you need that governance committee. You need a committee that is outside the control of the political environment, outside the control of the board, outside the control of the CEO. We need a whistle-blowing programme in the TTRA. So, I do hope that we could take all of these things on board and approve the TTRA in the interest of this country.

Thank you, Mr. President. [*Desk thumping*]

The Minister of Trade and Industry and Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Thank you, Mr. President. I want to thank you for the opportunity to say a few words on this debate, and to deal with some of the matters which have been raised by Senators on the other side.

It is clear that democracy is a very untidy process, as many people as they are—and I thank Sen. Assam for reminding me of the Latin equivalent which I was never good at—Latin. That as many people as they are, there will be different opinions, and one of those unfortunate mathematical measures of central tendency that we call an average, hides a wide disparity and variation of opinions. It is clear in the context of the debate and in the context of all the opinions that have been expressed in this Bill, in the public domain as well as here in this Senate, that we have several differentiations along a wide disparity. So that measures of central tendency—and that is what consensus is about—carry us to a particular point, but at the same time it does not leave us all satisfied.

In particular, the last point made by Sen. Drayton was the issue of sometimes we lie to our children about us taking a day of reflection, and it carries me immediately to the point which was made by Sen. Ramkhelawan. He did not want

to see any disruptions taking place in the business of the Revenue Authority that ought not to have taken place; what will happen. I am saying at the moment that public servants cannot strike. The reality is that they do, but they do not call it that. As Sen. Drayton correctly pointed out, they call it all sorts of things: a day of reflection, a day of rest and other matters, or they just sick out, do not turn up.

Now, in terms of the existing constitutional arrangements—and much talk has been made about the Public Service Commission. In fact, the point that was just made by Senators as well about the review of public sector difficulties of labour disputes, well the reality is that the Industrial Relations Act does not apply to the public sector, and neither do the service commissions. So there is no real mechanism for bargaining outside of the Chief Personnel Officer and negotiations with the Chief Personnel Officer, which is one of the reasons we always end up in these industrial disputes which are being fought in the public domain and are being brought into Parliament. The reality is that the Constitution as it stands, did not allow for, anticipate, and bring in mechanisms to handle it. That is a reality. It is a fundamental reality.

So when we are talking and we are dealing with the issue of the establishment of the Trinidad and Tobago Revenue Authority, we have to understand that we are dealing with a process of creation. We are dealing with developing an institution which is different from what has gone before it, and let us deal directly with one of the issues that has been raised, the issue of consultation, the issue of discussion about what is to take place.

When you are in the business of creation, first of all we can have a lot of discussions, we can agree in principle, but if we do not have a final design, if we do not have an organizational structure that is finished, that is final, that is actually in process that we have some yearnings with, all conversations are theoretical. They are all theoretical. That is what we have, and at the end of the day we are talking about putting a mechanism in position and a process in position to move from point A to point B. It is about a process of creation.

I think that is a fundamental issue that needs to be understood, and at the end of the day we often talk about—I heard several times about several different models which were being followed everywhere, and I thank my colleague, Sen. The Hon. Dr. Dick-Forde, for passing on to me a document on the Business of Public Management and the Business of a Public Sector Reform. The fundamental problem that it distinguishes is the difficulty in transferring models between domains. At the end of the day, that Model 1 may not necessarily be immediately and directly transferrable because our culture, our institutions, our establishments

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are completely different. So what happened in Canada is unique to Canada. What happened in England is unique to England. So there are experiences, although they may give us a direction, although they may give us some example to follow, they are by definition not enshrined in law or absolutes.

I think it is a fundamental principle of management that we have certain general tenets that vary situationally, but we have certain principles that we follow, and we must follow the principles. Not necessarily that the result is going to be identical, and that is something that we need to understand. This is the business of creation, and I heard Sen. Assam talk about the difficulties in terms of the vision and its simplicity, and in fact it probably would lead us nowhere. Well, the reality is that sometimes in terms of translating a vision, in terms of giving a message, in terms of trying to point somebody in a direction, sometimes you have to make if you want, the objectives in a sense easy to assimilate so that people could understand. Probably you may err on the side of simplicity, but those objectives by themselves are not simple. They are very complicated and very difficult. We are at the moment involved, whether we know, whether we like it, whether we understand it, in the process of creating a different and a better Trinidad and Tobago. For whatever errors of process that may have been made in the past by this party or any other, the issue is to arrive at a process which can carry us as we move forward. Furthermore, that the institutions that we were accustomed to, that the institutions that we grew up with, may not necessarily be the institutions that we need to carry us forward.

Fundamental issue. Sen. Assam would understand this quotation and understand it well, "All institutions must change or become dysfunctional", and dysfunctional is the code word for death. That is a reality. So institutional change is needed from time to time, and there are institutions even though they may have served us well in the past, sometimes need to be tweaked to serve us as we move forward in the future, and that will bring current institutional arrangements into difficulties, there will be disputes, there will be agreements, there will be arguments. That is the unfortunate process of democracy. We all have different opinions.

The reality is that we have to go through that learning process. That is the crucible of growth. That is what it takes. That is why a caterpillar is a very ugly thing and it morphs into a pupa, and it has to go through that difficult process. It has to squeeze itself out of a little cocoon, so that it moves the fluid from its big and thick body into its wings. It becomes a butterfly so it could fly. That process of growth, that metamorphosis, is what we are about here today, and that is why

we have differences of opinion, and that democracy is an untidy process. It is not easy, and sometimes we have to go through things that we may not like. We have had difficult periods in our time.

Yes, we have had children of Sisyphus, and yes, we have had to undergo very difficult times, and I know that Sen. Assam himself experienced some of those trials and tribulations, directly. At the time I was his employee, I was his direct report, so I suffered with him when he suffered in the Red House. I understood it, and I understand it well, and that is perhaps one of the reasons why I stand today on this side of the House because I was very clear in my understanding of the choices that lay in front of us. I myself had to make a choice, and that is the reason I am here.

Now, this whole thing about a threat to the entire public service. The entire public service consists of approximately 63,000 public sector employees—am I correct, 63,000? Approximately 30,000 of whom are represented by PSA—a total establishment position including those persons who for example will not be called public officers, but who are directly employed by various public organizations of another 20,000-odd. So we are talking about in excess of 80,000. We are dealing here with a total number of people employed of less than 2,000. I think the number is about 1,800. So there is no sinister motive. How much does that come up to? Less than 3 per cent of the entire public service; 3 per cent of the total number of employees?

There is no sinister move to contract out the public sector to the private sector, but there is a desire to bring certain private sector disciplines to the business of establishing and running the various revenue collection agencies, and no government would want to derogate its duty that will want to be irresponsible and create a difficulty. So this has to be managed and it has taken a long time for us to get to this position. It has taken us eight years to get here actually, and through several different iterations from several different types of discussions for us to get here.

Now, what were the difficulties? I think I answered some of these questions in a motion on the adjournment in March 2009, which was moved I think in the Lower House by Dr. Roodal Moonilal. He castigated the Government effectively for wanting to put people on the breadline, and I heard much of the same arguments repeated by Sen. Joefield. Nothing could be further from the truth. But the reality is, if you have to create a new organization, if we have to move forward, then, there are things that we must do.

5.45 p.m.

As I learned from Sen. Dr. Rambachan, in a direct one on one conversation, where he was not merely my tutor, but my advisor, sometimes you have to do things that you have to do, and this is one of the things that we need to do in the process of developing and building this country.

Yes, there was a draft Bill; yes, the draft Bill contains provisions with regard to the changes; yes, it talked about the issue of successorship; yes, it talked about a number of issues, but as things happened, things changed. So what were the alternatives; what were the possibilities? The reality is that there have always been ongoing discussions with the union; there is no question about that. I will do well to identify the specific options which were available to the Government.

The six options available to us were that all existing positions in the Customs and Excise Division and the Inland Revenue Department be abolished and a management team established to allow for the conduct of a full recruitment process; in other words, a clean break with the past. Alternatively, transfer everybody to the new organization; just transfer everybody—that was an option. Existing employees may request a transfer, that is, automatic employment with the TTRA and the Government does a screening to determine the relevant competencies; in other words, set up a filter. Existing employees may request a transfer to a comparable position in the rest of the public service; that is dependent on the availability of such a position. I think that was the position that Sen. Ramkhelawan talked about. Existing employees may request a transfer to a comparable position in the rest of the public service; that would depend on availability. That is another possibility.

These were discussed with an advisory committee, with consultants and there were a number of points made with regard to those options. One has to be mindful of the objectives of the establishment of the Trinidad and Tobago Revenue Authority in terms of the requirement to create a platform for greater efficiency. In other words, yes, they require a filter; yes, they wanted to take forward the best persons to move forward, but at the same time to do so on a selective basis would raise a number of legal problems and constitutional issues as well.

Should the Government place any obligation on the management of the Trinidad and Tobago Revenue Authority to accept employees automatically, taking into account that the management is supposed to operate within a certain degree of autonomy and within certain paradigms and that any screening, finally, could result in litigation for the very reasons that were identified because one

could say you discriminated against Tom, Dick or Harry. In those circumstances and having regard to all those options, the option that was put on the table was to determine everybody's contracts and have everybody reapply for their jobs.

That creates a very fundamental issue of the transitioning. How do you transit at 12.00 midnight when this new authority comes into position and what takes place? That is the reason a company was formed called the TTRAM, the Trinidad and Tobago Revenue Authority Management Company Limited. That particular entity was staffed by a small number of technicians who worked in the Government, who either worked in Inland Revenue, Customs and Excise or worked in Public Administration, the former CPO. The whole idea was to build out an organization in real terms; how it would be structured, how it would be staffed, what would take place and what software. On day one, you could not start it up and then ask: What is the procedure for this? Those procedures all had to be in position before. The purpose of that private sector company, formed under the Companies Act, is to create that transition period, that transition point; that is its sole purpose. It will then fall away and die and will be supplanted when we pass this TTRA Bill.

Sen. Ramkhelawan: Are you saying that you are aware that procedures are in place so that when or if this Bill is passed today or tomorrow you can create an effective transition, whether it is June 30 or so? That is the first question. The second thing I want to clarify for you is with regard to the whole question of the ability of the persons under the new authority to strike. I was saying that there was no provision in the legislation to ensure that no industrial action could take place, not what the form of industrial action would be.

Sen. The Hon. M. Browne: As I indicated, we put the company in position to facilitate the interim process, in a sense to build out the company. The company is staffed with a certain type of expertise: IT expertise, accounting expertise, to build those procedures, and persons who are actually in the process.

If the Bill is passed today, they could not put in any authority tomorrow; that could not happen. There is a transition period while you build it out and that is what we are doing. It is being built out as we speak. We are much further along the road with regard to where we will go—numbers, staffing, manpower requirements and so on.

That is one of the reasons, in a sense, you cannot engage in a discussion in terms of what is going to happen and who is going to go where, until you have staffed out or built out the organization. Is that going to be final? The answer is

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no; even when you build a new piece of equipment you have to test it; you have to make certain it works. A lot of testing has to go on. Even when you get it, there will still be some degree of transition, some changes that need to take place, until you work your way in. That is where we are; we are in a transition process. We are building it out.

Final discussions and negotiations with respect to the VSEP and everything else, have not even started; they are talking, but in a sense we are in process. There is a process in position. That is part of what the industrial relations process is, that you have discussions and you talk it through. That is what is required; so we are doing what we can do in the circumstances.

There cannot be a one to one transference from point A to point B. If you have one to one transference, what are you doing? You are building the same thing over; it cannot work that way; it is impossible to do it that way. You need the interim position; you need the hiatus that gives you time to build out the organization and then you need to map the jobs. It is not a direct one to one transference.

I made the point in a contribution in the other place that, at the end of the day, organizations have no memory. When we leave here, this is an empty room. The institution of itself is the gathering of the people, the rules and the regulations that are included in May's, that are included in the Constitution, that are included in our Standing Orders. That is what constitutes the Senate and our people and the various minds we bring together here, at any one stage in time. That is an organization. It will only become an organization when it actually has body, life and blood, people moving in that organization; and you need that time. We need to understand that.

I think we are running ahead of ourselves, in many instances, in terms of the kinds of criticisms that we are levying here. [*Interruption*]

Sen. Mark: There is a difference between an organization and an institution.

Sen. The Hon. M. Browne: An organization and an institution are pretty close together; there may be a difference and that has to do with elan and the institution has to do with the reputation that comes with it, and so on, and so on and so forth.

The point I am making is that this is part of a process. We can anticipate the process, to some extent. Some of those questions with respect to what is going to take place, at that particular point in time, are valid and some of the comments

with respect to the Bill are valid. You cannot put everything in a Bill. The argument, for example, that the secretary is not included here, that there is no role for the secretary; in a sense, this is not a corporate entity as it is in company law. The role of a secretary has a well defined place in company law and a huge body of legislation of company law. I am sure Sen. Seetahal SC could correct me on that point, at any time, in terms of the role of a corporate secretary and what he or she has to do. It is not necessary to enshrine what the secretary does or who the secretary is, and put it into this Bill. There is a sufficiently wide body of knowledge on the outside of this Bill that could support the operations of a secretary.

Similarly, the issue with respect to the development of compliance audit and so on and so forth, it is sufficient to include under clause 9 the fact that:

"The Board shall be responsible for approving and ensuring the implementation of management policies in relation to the internal audit of the Authority."

Good corporate governance is well established now and I think there is an adequate body of evidence that has grown up in the space of the last 10 years, on the basis of everything that has taken place in other jurisdictions, about the role of the audit committee, who it should report to and how it should be staffed, that need not necessarily be included in the context and ambit of this Bill. That is also the ambit which falls within the purview of this board of management.

We also need to understand that this is not a private sector company in the same way in which a company would operate under the Companies Act or the current legislation that governs the operation of companies; this is not that. That is why it is called an authority and why it is being separately debated and enacted as an Act of Parliament. That is why we are having this conversation. It will incorporate some of the devices which are used in the private sector. That carries me back to the beginning of my contribution when we talked about models and the need to understand that the models we develop need to be relevant to our situation and we need to have a certain level of thinking as we are doing it.

We cannot, how shall I put it—it was put in this article by Mr. Pollitz, the professor of Public Management at Erasmus University, Rotterdam. Sen. Mark, were you referring to this article earlier on?

Sen. Mark: Erasmus was the "fella" who—[*Interruption*]

Sen. The Hon. M. Browne: I am sorry I paid you the courtesy and the honour of asking you a question. [*Crosstalk*] He says it very simply, that taking on complex organizations is not simply about one technique. He says it is about a

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broad approach which involves, and including within itself, many disputes and differences, nor is it a matter of complexity and variation alone. There is always a lack of unanimity on how these techniques will work. So expectations about what is to happen in the future, how things would work, would vary on the basis of people's perceptions of what takes place, and that is amply reflected here today, in the context of this debate and in the context of how, for example, you can take one provision and manipulate it or see it in all different sorts of ways.

Sen. Drayton: May I?

Sen. The Hon. M. Browne: Yes.

Sen. Drayton: It is okay to say that, but we must also see this from a frame of reference, where the Government has set up authorities in the past. That frame of reference is not a good experience; therefore, the models that have not worked should not be attempted again. I think we need to look at that frame of reference; this is the point that we are making.

Sen. The Hon. M. Browne: Senator, I could not agree with you more. It is precisely for that reason that we have chosen to grow a path which is different. I think Sen. Mark was the one who made the point that he wanted us to follow policy, what we have done in the past, and the answer is that we have learnt from what we have done in the past, precisely because we have made mistakes. We cannot go down that path again; after 20 years we are still dealing with some issues caused with the establishment of the Regional Health Authorities that we still have not sorted out.

Sen. Drayton: Yes, but you are missing another point. This legislation represents legislation from 20 years ago. Everything in that legislation, you can find in legislation that was written 20 years ago. You have brought legislation to support the status quo, not a new entity where you are saying that it is going to be efficiency of operations and effective corporate governance. The legislation, as it is, is not supporting that.

6.00 p.m.

Sen. The Hon. M. Browne: Well, we beg to differ on that, that is not in fact the case. In fact, I guess if you take the argument that the car you drive is based upon the same principles of the model T which was started off in 1907 or 1910, then on that basis there are similarities, I accept that. But in its form, its structure, it is very different from legislation that has been brought before this Senate.

Sen. Mark: Then were you more backward— [*Inaudible*]

Sen. The Hon. M. Browne: I understand the dichotomy and argument which has generated the debate between the provisions of clauses 9, 16 and 17.

Sen. Seetahal SC: I would like the Minister to explain; in defining the powers of the board at 9(2) it specifies that the board shall not be responsible for the functions of the Authority specified in clause 7 and shall not have access to any documents or other information concerning legal actions instituted in the name of the Authority or brought against the Authority. So that is where the authority sues. Now, if it is the board of management of the authority, my question is how could the board not have cognizance or at least access to those legal documents which may very well be in the public domain in the court? So it sounds incongruous to me.

Mr. President: Minister, before you answer. Sen. Mark, I would be grateful if you would not turn your back.

Sen. The Hon. M. Browne: I take that point. Having been a managing director of a board myself, one would always need to disclose the suits that are in process at any point in time, for and against. I think what the section is attempting to do, and precisely because a suit becomes a matter of public record and everybody else knows what the details are, I do not think you can prevent that knowledge from coming to the board of management, I do not think there is any question about that.

I think the issue has to do with the privity of information with respect to, for example, a person's financial situation, with respect to a person's tax position and so forth before the fact. I think that is the issue, so it does not put the board in a situation where it becomes aware of confidential information. I think that is what the provision in the legislation is seeking to achieve. I understand the point that you are making, I understand what it is attempting to do and I appreciate your precision as an attorney against mine in terms of my general understanding.

Sen. Assam: The Minister is an attorney too.

Sen. The Hon. M. Browne: I think that we need to understand the specifics of what we are trying to do in terms of the organizational structure. What we are attempting to do here is ensure—much the same way for example—let me put this contradiction in position.

The Government, for example, is the only shareholder in First Citizens Bank. This bank does private business with Tom, Dick, Harry—

Sen. Assam: And Sheila.

Sen. The Hon. M. Browne: And Mary and Jane and CL Financial. Now, the actual details of my personal banking information, I would not want any Minister to see, or any civil servant to see. One would always have certain difficulties in terms of how that information would get into the public domain or would be leaked. So the Minutes that come, for example, to the Ministry of Finance—and we at the ministry review it, we want to know what is taking place—does not say Tom, Dick or Harry.

It sets out in broad terms, this is what the lending position is, these are the amount of new loans that we got. We do not know the names, the board knows the names, the board sees them, but the creation of that distance, that deference in a sense to persons' private information, that is the type of deference that you are trying to create here by creating a board of management that gives directions with regard to the operations of the authority to ensure that the authority operates efficiently, but at the same time, is not minded to get involved in people's detailed tax returns and who did not pay their tax and who are behind and all that kind of stuff. You want to ensure that the board of management does not have access to those types of details. That is the way this is structured, so it is actually different to the way in which a company operates and that in a sense, leads to some of the dichotomies and difficulties that I have heard and questions that have been asked.

The relationship between the board and the CEO. At the end of the day, there is always a difference between what is written and what takes place. A relationship covers several different things, the actual practice of the relationship as well as what is written in terms of your agreement, for example, all relationships could be contractual, but at the same time people sometimes operate out of the range of contract. For example, employees are employed to work from 8.00 a.m. to 4.00 p.m. Sometimes they stay behind voluntarily for love of the job because they have been asked to do so; sometimes they work very late hours to ensure that things happen without overtime. Those are allowances and nuances which develop in terms of a relationship.

Certainly, in the course of the way this management institution is meant to be structured they will have a relationship with the CEO, by definition he must have a relationship with the CEO. But given the specifics in terms of what the authority is meant to do, there is a line which is drawn that the board cannot get down to those levels of details, but of course they are responsible in terms of managing and disciplining the CEO insofar as how he runs the operations and the organization. That must happen, but because there is no role that is defined for the deputy CEO in the legislation does not mean to say there is not one. And as you well know, for example, a deputy—

Sen. Assam: Is essential.

Sen. The Hon. M. Browne: Quite apart from a deputy being essential, one or two deputies, in running an organization you do not put that in legislation. That deputy is meant to do a number of things not included in the legislation, but certainly included in the organizational structure that gives life to this. We cannot lay the organizational structure to show who is doing what, who is reporting to whom and so forth.

Sen. Assam: You say the deputy has no function; that is what you say in the Bill.

Sen. The Hon. M. Browne: That is clause 16, let us go there. Why will you hire somebody who has no work? Sen. Ramkhelawan made a very important point, he said the terms of the experience requirements under clause 16(2) which says:

"...shall be persons who have demonstrated skill and experience..."

Who is this person going to be? What type of skill and experience and why was it not more precise? Let us give you some instances. In a very similar Bill, the FIU, we had that argument about the CEO and the argument we made then is that we left the terms broad, sufficiently wide, to encompass possibilities of moving people who may not have had certain specific qualifications for this specific job, so we left it sufficiently broad. For example, the requisite combination of experience plus qualifications is meant to be a certain type of dualities, certain competencies.

For example in the United Kingdom (UK) and in the US you have people who are tax professionals in this and in that. We have no local tax certifying boards, no local tax certifying exams. The best who are professionals in the business of revenue are either one of two sets of people; they are a firm of accountants who work with private sector firms, or people who have grown up in Inland Revenue.

For example, if we have to look for an expert in oil tax legislation where would we find him?

Sen. Assam: John Andrews.

Sen. The Hon. M. Browne: That is the point. We would not find him in one of the firms. Where was all of his training? He grew up in Inland Revenue; and it is precisely to allow transference. I make the point again, organizations have no memory, people do. So the embodiment of all that tax practice and tax practice law that has taken place exist in the level of the public service. Those are the

persons you would first go to, you are not going to get rid of a body of experience, you are not going to do that, but at the same token, to give a certain degree of freedom in terms of the allocations of certain jobs in terms of what takes place, and to ensure that you are not charged with the issue of bias, that you want to have a free hand in the selection process in terms of who is best fit for the job.

By definition, the CEO has the general responsibility for the management of the organization and after that, given the fact that we are bringing three specific different departments into position, and then by definition you would want to have a definite functional experience of somebody who is responsible. So you will have people who are reporting to the CEO who have that particular experience. In the same way you would want to lay off certain types of administrative requirements in certain detailed day-to-day management, that is what a deputy is for. That is the purpose of a deputy.

Sen. Seetahal SC: Through you, Mr. President. In selecting a police commissioner we had this long list of requirements, Minister, and probably assessments through some school and so forth. All I am seeing here is for the Minister to make an appointment unsupervised and the person must just demonstrate skill and experience in an area; tax, customs, law and so forth, and have a capacity to manage. Who is to assess that? Is the Minister capable of making that assessment and the person must have an understanding of the welfare of the employees? There is no kind of assessment.

This is a person who is going to be in charge of 90 per cent of our revenue. I feel very, very vulnerable, and the rest of the country, to have a person appointed with such minuscule qualifications listed and no supervisory body in determining how this appointment is going to be made and it sounds like it could very well be a political appointment.

Sen. The Hon. M. Browne: Yes, I guess it sounds that way. So let us examine exactly what was being positioned. The recruiting agency is going to be GISL whose job and who actually has developed very rigid and strong—GHRS sorry, the Government Human Resource Company Limited.

Sen. Assam: Who is going to make the appointments?

Sen. The Hon. M. Browne: On the basis of recommendations, on the basis of a detailed screening process which is done by GHRS which will have criteria which will be established and do the interviews, recommend, shortlist and will come to the Minister on the basis of recommendations and the process which has been done. By the way, we are using that process as we speak.

Sen. Seetahal SC: It is not in the regulations.

Sen. The Hon. M. Browne: It may not be in the regulations, but that is what is in process at this stage of the game. That is it and also, one of the reasons why the TTRAMCOL has been set up with a certain level of body of professional persons inside to do that screening and that filtration process. So it comes to the Minister, and he is not whimsically going to make a decision, there is a process to inform him and maybe our communication is not sufficiently robust in saying what the processes are, but there are processes in position; this is not a willy-nilly decision.

Sen. Assam: The processes are initiated by the Minister, depending on who the Minister is. It may not be this Minister who has integrity and all those kinds of things.

Sen. The Hon. M. Browne: Or perhaps other things.

Sen. Dr. Saith: It may be Jack Warner. [*Crosstalk*]

Sen. The Hon. M. Browne: I understand the point you are making, that you want certain types of processes to be published, demonstrated and articulated in a fashion that is known to all so you would know what is taking place rather than you take it for granted. That is what I hear you to say?

Sen. Assam: Of course.

Sen. The Hon. M. Browne: Good. As I understand it, as in every other type of body—and it is anticipated in the rules which are to be established under clause 9 which says it very well. In other words, you do not just open the company and say:

"(a) the finances, real property and other assets and resources of the Authority, the securing of contracts, the procurement of goods and services and other administrative activities;"

This is wild and wonderful, but what you are doing now, where you are building out the processes to make that happen? The processes are actually being built out so there will be a detailed set of procedures. How else, for example, what is a code of conduct for the employees? You have to build one; it has to be established, so it is in process. That is what is being built as we speak. So you have a code of conduct that will be built out, that is what TTRAMCOL is doing, that is its purpose, to build, as I said before, the organizational systems to make this structure work. That is the purpose of the board.

6.15 p.m.

Sen. Assam: Who constitutes TTRAMCOL? Who are they?

Sen. The Hon. M. Browne: The chairman of the board is Andre Vincent Henry; we have Nestor Lambert who is the former HR Manager; we have Philip Marshall, who is a partner of an audit firm, an accountant of several years with IT experience and specific management consulting experience; we have Ingrid Lashley as part of the organization; Tang Yuk; the managing director of Tang Yuk and Company; we have also Tecla Reyes, the former CPO, a former PS. Those are the type of people you have in position there.

Sen. Mark: Do you have a member of the trade union there?

Sen. The Hon. M. Browne: We do not have anybody from the trade union and we accept that. We were not building out industrial relations guidelines. We have that in process.

So that the issue of building service standards and performance targets and so on, are also embedded and work well with the IT systems that are being built out; the embedded systems. One of the fundamental issues here—and I think the point was very well made by Sen. Drayton, that we also need to—the customer service actually is the issue of a customer, the issue of—and Sen. Assam made the point about process requirements, about facilitating systems. At the end of the day, part and parcel about building this organization is about building a system that allows for, not merely efficiency, not merely transparency, but allows for a different type of service delivery over time. We understand fully that tax is important. Tax is a fundamental part of the system. But all of us have had experiences with Inland Revenue. Have they been great?

Sen. Seetahal SC: Not bad.

Sen. The Hon. M. Browne: I am glad to hear that. On behalf of the management and staff of the Board of Inland Revenue, I thank you for that compliment. But the answer is, you also want to make it better. There are things that we need to do to make it better.

Sen. Assam: You do not have to mash it up to make it better.

Sen. The Hon. M. Browne: Sometimes you do and you know that better than I do, so I know that you are saying that tongue-in-cheek.

Now, in response to Sen. Drayton, under clause 10(1), the issue of the functions of the board—and I think you made issue with clause 10(2):

"A member is not liable for breach of duty under subsection (1) if the member relies, in good faith, on—"

I think that is a general common law remedy, a good faith requirement on a third party. So I do not think that the specific issue of—*[Interruption]* Well, it might not be necessary, but at the same token, inasmuch as we are not offering any indemnities, it is not a bad thing to have it in position to the board.

Mr. President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. *[Hon. Dr. L. Saith]*

Question put and agreed to.

Sen. The Hon. M. Browne: Thank you, Mr. President, and my colleagues on all Benches for the confidence and for the opportunity to speak a little longer.

I understand fully the issue about the guidelines for procurement and why they are now, in a sense, very topical. I understand why they are very topical and I speak with some degree of authority on this matter inasmuch as it falls within my responsibility at the Ministry of Finance. I want to say that for quite some time we have been working on common sizing the procurement guidelines of all state enterprises and if there is one thing that came out of the Uff Report, it is the idea that they should be all brought under one particular rubric. That has proven to be a bit of a management challenge as we have moved onwards, but it is important to note that within the relevant clause 27:

"(2) The Board shall, subject to the Minister's approval, make rules relating to the award of tenders and contracts and those rules shall govern the conduct of the award of tenders and related matters.

(3) Until rules are made under subsection (2), the Corporation shall follow the procedures detailed in the Central Tenders Board Act."

In other words, it is not waived. It is still subject to the Central Tenders Board, and on that basis it is also subject to the directions of the Ministry of Finance in terms of procurement guidelines and it is clear that the standard procurement guidelines that we have and we operate under, now need to be standardized across all special purpose companies; in fact, all companies at the moment that report to the Ministry of Finance or, in fact, that are owned by the Ministry of Finance, and this organization will be no different.

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Furthermore, it goes on to require that those rules are subject to negative resolution by Parliament.

Sen. Drayton: Change that to affirmative.

Sen. Seetahal SC: They have no rules there.

Sen. The Hon. M. Browne: They have no rules?

Sen. Seetahal SC: Only the board rules—[*Inaudible*]

Sen. The Hon. M. Browne: That is a delicate legal point. I am pretty certain that if they are the board rules and the board is responsible for the management of the organization, the board rules then become those of the authority. [*Interruption*] If you say so, but as far as I understand it, and I understand from a practical distinction, the reality is that these rules will become the rules for the authority; those are the authority's rules and inasmuch as the board is responsible for the management and conduct of the authority, then those are the rules that have to be followed, subject to the guidelines and subject to the directions of the Ministry of Finance.

I started off at the beginning by dealing with the Public Service Commission and the fact that the Public Service Commission and the various service commissions—

Sen. Mark: Sir, before you go on to the Public Service Commission, may I?

Sen. The Hon. M. Browne: Yes, Senator.

Sen. Mark: Mr. President, I just wanted to ask the hon. Minister again, as we seek to measure standards of performance and provide us with the justification for this authority, I would like to ask him if, again, he can either provide us with it now or bring it tomorrow. We want to get, for instance, a breakdown of the tax to GDP ratio in terms of Trinidad and Tobago versus the rest of those countries that we mentioned. We would like to also know the collection cost as we have identified. We also want you to provide us with a cost benefit analysis. If you cannot provide us with it now, do you have a study? Make it available to us. We also want to find out from the hon. Minister what is the projected revenue increase that the Government intends to realize with the introduction of this new authority, so we could be convinced that what we are dealing with is something that we can measure in terms of performance. All we are getting is just airy-fairy arguments, you know; we are not getting anything concrete from the hon. Minister, you know. We want to get something concrete.

Sen. The Hon. M. Browne: Now, I know that the hon. Senator would have looked—and, in fact, he gave me ratios; he gave me collection ratios; 65 cents in the dollar, he said, although I do not remember him telling me exactly where those numbers came from or how they were calculated. So I am not working it on that basis. Let me put it this way to you, then. The ratio of revenue using the Review of the Economy and using tax revenue—and tax revenue will be revenue from all taxation sources—ranges between 25 and 30 per cent, depending upon the efficiency of taxation in any one particular year. That is what the number is. I mean, it is easy to work it out; it is in your appendix. You just work it out on the basis of GDP numbers. Right? So that is a rough number.

The estimate of the leakage done by the various professional organizations—particularly the World Bank—says that the leakage could be as high as 5 per cent. So if you want to take that in terms of an efficiency collection measure, you can have an efficiency uplift in terms of the revenue collection of anywhere between \$1 billion to \$7 billion. That is the number we are playing with. And if you take that as an efficiency measure that you want to take over time, that more than pays for any sort of, if you want, capital cost in terms of VSEP and everything else that has to be done. The measure will pay for itself.

That is the quick and rough and dirty measure, but that is not the only measure. There are other measures we have to put into position and, at the moment, for example, I do not think we are sufficiently tight in terms of how we measure those numbers. Keeping it in a tighter structure allows us, for example, to bring certain types of, if you will, management measurements on an ongoing basis, and I think Sen. Drayton adequately pointed out with respect to the type of revenue numbers that you want to look at on an ongoing basis and the fact that you need to report.

We do report. This document is laid in the House. The Treasury Report, volumes 1, 2, 3 and 4 set out our accounts every four months at the end of the financial year and set out what our total numbers are and they are audited by the Auditor General, so putting the Auditor General in position here and the actual deadline that we have at the moment is four months—120 days—which I find is too long. I agree it should be shorter. We have not put it in the Act, but at the moment that is what we live in accordance with; it is 120 days, and those documents are, in fact, laid in Parliament.

So there is nothing magical; there is nothing that is not being done. We do it now. In fact, there are a lot of opportunities, if you want, for increased efficiency in terms of the management of the Exchequer Account. There are a lot of

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opportunities for us to do so. I mean, for example, an international financial organization may have automatic reconciliations on their bank accounts, especially when you are dealing with millions of electronic transactions. You reconcile every day, not every month.

These are the types of opportunities that become possible in this type of circumstance, that you can actually bring a type of modern management practice into the public domain. So this is not to make it a private sector company, but it is meant to bring certain private sector efficiencies which now do not operate. So the answer is that it is designed to give some more efficiency, no question about that.

A strategic plan is something that one does and updates. So, clearly, you are going to do a budget every year. You are not necessarily going to do a new strategic plan every year; you will tweak it.

Sen. Drayton: So why put this in the legislation? If you say you are not doing this strategic plan every year, why, in the legislation, have you included in there, "to submit an annual strategic plan"? On one hand you are saying you have a board of management who can make rules and do X, Y and Z and you do not have to put everything in the legislation, but then the legislation itself contradicts that in other ways. That is why I keep making the point that the legislation needs fine-tuning.

Sen. The Hon. M. Browne: I do not agree that—

Mr. President: You have got two minutes.

Sen. The Hon. M. Browne: Yes, Sir. Thank you very much, Mr. President.

Again, this is a process of creation and the best discipline is to produce a strategic plan every year and to produce it on a document which sets out the changes that you have made between last year and this year. With respect to the fundamental issue which I think was raised with the question of industrial relations, the Act anticipates industrial relations practice where there will be a negotiating or third party representation of all. It does not seek in any way to abridge the rights of employees, and certainly the intention is not to put X number of people outside on the breadline; that is not the intention. And I make the point that the people who are best suited to gaining employment in the new Revenue Authority, would be precisely those people who are currently employed. Those are the ones who understand the way the tax system works. But at the same time, to allow some flexibility—

Sen. Assam: Why did you not say so from the beginning?

Sen. The Hon. M. Browne: We said so. Maybe you did not listen.

Sen. Assam: There were mixed signals.

Sen. The Hon. M. Browne: All right. Maybe we got some mixed signals; maybe people did not understand; maybe because it is something new people felt threatened. The reality is, that was always in the cards; it has always been in the cards, always, and I know that our friends on the other side understand that.

Suffice it to say, I want to make this point fundamentally clear once again, this is an organization; it is a different model. It is not the Canadian model; it is not the English model; it is something that we are building in view of our experience in terms of our history and what we need to understand is that we are building an organization, and a robust organization, whatever the deficiencies of process in terms of the past, to be able to deal with the processes which we have to face in the future.

I thank you, ladies and gentlemen.

ADJOURNMENT

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, I beg to move that the Senate do now adjourn to Thursday, April 08, at 1.30 p.m., at which time we will continue the debate on this Bill.

Mr. President: Sen. Seetahal SC, I would be extremely grateful if you would keep your voice down when you are having your little asides. It is extremely distracting.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.30 p.m.