



PARLIAMENT
REPUBLIC OF TRINIDAD AND TOBAGO
(TENTH PARLIAMENT- 2013/2014 SESSION)

REPORT
OF THE
JOINT SELECT COMMITTEE
ON
THE LEGISLATIVE PROPOSAL ENTITLED
“THE DRAFT HOUSES OF PARLIAMENT
SERVICE AUTHORITY BILL, 2014”

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THE COMMITTEE

APPOINTMENT

1.1 Pursuant to resolutions of the House of Representatives on Friday March 21, 2014, and of the Senate on Wednesday April 02, 2014 a Joint Select Committee was established:

“to consider and report on the legislative proposal entitled, ‘The Draft Houses of Parliament Service Authority Bill, 2014’ and report no later than May 31, 2014.”

MEMBERSHIP

1.2 The following persons were appointed to serve on the Committee:

- Mr. Wade Mark, MP
- Dr. Roodal Moonilal, MP
- Mr. Jairam Seemungal, MP
- Ms. Marlene McDonald, MP
- Mr. Colm Imbert, MP
- Mr. Timothy Hamel-Smith
- Mr. Anand Ramlogan, SC
- Mr. Emmanuel George
- Mr. Elton Prescott, SC
- Mrs. Camille Robinson-Regis

TERMS OF REFERENCE

1.3 The Committee established its terms of reference as follows:

- I. To consider the comprehensive draft legislative proposal and the underlying principles;
- II. To consult with stakeholders;
- III. In consultation with United Nations Development Programme (UNDP), engage experts and parliamentary, human resource & industrial relations practitioners in

order to generate the best practices and appropriate outcomes/benchmarks for our jurisdiction; and

- IV. To propose for implementation, legislation to give effect to the purpose of the proposal, together with the requisite regulations.

MEETINGS

1.4 The Committee held three (3) Meetings on the following dates:

- 1st Meeting – Friday April 11, 2014;
- 2nd Meeting – Wednesday May 14, 2014;
- 3rd Meeting – Friday July 11, 2014.

ELECTION OF CHAIRMAN AND QUORUM

1.5 At its first meeting, Mr. Wade Mark, MP was elected as Chairman of the Committee.

1.6 The Committee also determined at its first meeting that a Quorum would consist of four (4) Members inclusive of the Chairman with at least one (1) Member from each House.

SECRETARIAT and TECHNICAL SUPPORT

1.7 The Committee's Secretariat comprised of the following persons:

- | | | |
|--------------------------------|---|---------------------|
| ○ Mr. Ralph Deonarine | - | Secretary |
| ○ Miss Candice Skerrette | - | Assistant Secretary |
| ○ Miss Chantal La Roche | - | Legal Officer |
| ○ Miss Susan-Leigh Christopher | - | Legal Officer |
| ○ Mr. Stephen Boodhram | - | UNDP Consultant |

1.8 The Committee received Legislative Drafting support from the following officers from the Chief Parliamentary Counsel's Department:

- | | | |
|------------------------------|---|------------------------------|
| ○ Mrs. Ann-Marie Brassington | - | Senior Parliamentary Counsel |
| ○ Ms. Darlene Smith | - | Legal Officer |

INTERIM REPORT

1.9 Since establishment, the Committee has submitted one (1) Interim Report to Parliament stating that its work was not yet complete and sought an extension of time to complete its work. The time for the submission of a report was extended to July 31, 2014.

REPORT

2.1 The Committee wishes to report that further to the agreement of Terms of Reference, it proceeded to identify key stakeholders for consultation. These stakeholders are listed at **Appendix B**. The Committee thereafter issued a call for submissions by writing to all stakeholders. Submissions were received from the following stakeholders, which can be found at **Appendix C**:

- ✓ Senator Helen Drayton;
- ✓ The Head of the Public Service;
- ✓ The Auditor General; and
- ✓ The Chairman of the Public Service Commission.

2.2 The Committee conducted a detailed page by page analysis of the Legislative Proposal, which is at **Appendix A** to the Report. Thus far, the Committee has considered Clauses 1 through 19, under Parts I to IV of the Proposal in sufficient detail, making recommended changes. The suggested amendments are tabled in the Minutes of the Meetings, located at **Appendix D**.

2.3 Given the imminent prorogation of the Fourth Session of the Tenth Parliament, the Committee regrets that it will not be able to complete its work.

RECOMMENDATIONS

3.1 Your Committee recommends that the House of Representatives and the Senate note the progress made by the Committee toward the completion of its mandate.

3.2 Your Committee also recommends that:

- a) A new Committee be established in the new session to *“to consider and report on the legislative proposal entitled, ‘The Draft Houses of Parliament Service Authority Bill, 2014’”*; and
- b) This new Committee be authorized to adopt as part of its records, the work undertaken to date as well as the submissions received.

Respectfully submitted,

Sgd.

Wade Mark, MP

Chairman

HOUSES OF PARLIAMENT SERVICE AUTHORITY ACT

An Act to provide for the Incorporation of a Body Corporate to be known as the Houses of Parliament Service Authority with a mandate to provide for the administrative management of the Parliament of the Republic of Trinidad and Tobago and for connected purposes.

PART 1

PRELIMINARY

Short Title

1. This Act may be cited as the Houses of Parliament Service Authority Act.

Commencement

2. This Act comes into force on a date to be proclaimed by the President.

Interpretation

3. In this Act, unless the context otherwise requires, —
“appointed day” means the day appointed by proclamation for the commencement of the provisions of this Act;

“Authority” means the Houses of Parliament Service Authority established by section 7;

“Board” means the Board established under section 12;

“Chairman” means the Chairman of the Board and includes the vice-chairman or any other member of the Board when discharging the functions of the chairman;

“Clerk” means the Clerk of the House;

“Constitution” means the Constitution of the Republic of Trinidad and Tobago enacted as the Schedule to the Constitution of the Republic of Trinidad and Tobago Act, Chapter 1:01;

“Former Department” means the department of the Office of the Parliament prior to the commencement of this Act.

“Fund” means the Authority Fund established under section 39;

“Head-Legal Services” means the person employed in the capacity of Head, Legal Services, Office of the Parliament;

“Houses of Parliament Service Authority Code of Conduct” means the code of conduct prescribed under the [] Schedule;

“Leader of the House” means the person named by the Prime Minister as being assigned the duty of arranging the business of the Government in the House;

“Leader of the Opposition” means the holder of the office of the Leader of the Opposition established by section 83 of the Constitution;

“member” in relation to the Authority, includes the Chairman and the Deputy Chairman of the Board;

“office”, in relation to the Authority, means a paid office as an employee of the Authority, not being the office of a member of the Board, or a part-time office, or an office the emoluments of which are payable at an hourly or daily rate;

“officer” or “employee” means any person who holds or acts in any office of the Authority otherwise than as a part-time officer or employee;

“Parliament” means both Houses of Parliament of the Republic of Trinidad and Tobago;

“Pensions Act” means the Pensions Act of the Republic of Trinidad and Tobago as amended, Chapter 23:52;

“precincts of Parliament” means the chamber and offices of Parliament and the galleries and places provided for the use or accommodation of strangers, members of the public and representatives of the press, and includes, while Parliament is sitting, and subject to any exceptions made by the direction of the Speaker, the entire building in which the chamber of Parliament is situated, and any forecourt, yard, garden, enclosure or open space adjoining or appertaining to that building and used or provided for the purposes of Parliament;

“Public Service” has the same meaning assigned to it in section 3 of the Constitution;

“services and facilities” includes all means by which members of both Houses of Parliament are officially assisted in performing their parliamentary duties;

“Statutes Act” means the Statutes Act of the Republic of Trinidad and Tobago as amended, Chapter 3:02;

“Vice-chairman” means vice-chairman of the Board.

Vesting of powers, rights and property of Former Department

4. (1) With effect from the appointed day –

- (a) all land and other property of every kind, including things in action, used, managed and controlled by the Former Department and vested immediately before that date in the State; and
- (b) all the assets, rights, privileges and advantages and all the liabilities and obligations that the Former Department was entitled or subject to immediately before that date,

shall be transferred to and conferred or imposed upon the Authority.

(2) every Act giving power or authority to or imposing any liability upon or otherwise relating to the State by virtue of the Former Department or providing any forms or proceedings relating to the State by virtue of the Former Department shall, unless the context otherwise requires and so far as applicable, be read and have effect as if, in the Act, the Authority were substituted for the State. [But this will cause the Corporation to assume liability when the State should bear it]

(3) A reference in any –

- (a) Act, rule, regulation or bye-law made under any Act; or
- (b) deed, contract, bond or security or other document of whatever kind, public or private, to the Former Department acting on behalf of the Government of

Trinidad and Tobago shall, with effect from the appointed day, be deemed to refer to the Authority.

(4) Legal proceedings pending immediately before the appointed day by or against the State by virtue of the Former Department may be continued on or after that day by or against the Authority as the party to the proceedings instead of the State.

(5) in this section –

(a) “appointed day” means the appointed day in section 3;

(b) “Former Department” means the Office of the Parliament.

(6) for the avoidance of doubt, nothing in this section shall have the effect of reviving a claim against the State by virtue of the Former Department that on the appointed day was statute-barred.

Objects of the Act

5. The main objects of this Act are:

(a) to ensure the autonomy of and to promote the efficiency of the Parliament of Trinidad and Tobago as established by the Constitution;

(b) for the purpose described in paragraph (a) above, to establish an independent non-partisan Parliamentary Service Authority which shall be managed by a Board for the purpose of exercising and performing such duties as are conferred upon it by this Act or any other written law, and that is efficient and effective in serving the needs of the Parliament of the Republic of Trinidad and Tobago;

(c) to provide a legal framework for the effective and fair employment, management and leadership of the employees of the Authority; and

(d) to establish rights and obligations of the employees of the Authority.

PART II

THE HOUSES OF PARLIAMENT SERVICE AUTHORITY

Nature of the Authority

6. (1) The Authority shall be an institution of exemplary administrative and technical competence.

(2) In the performance of their functions, employees of the Authority shall not seek or receive directions from any source external to the Authority.

(3) Every member of both Houses of Parliament shall respect the non-partisan and apolitical character of the Authority and shall not seek to influence employees of the Authority in the discharge of their functions.

PART III

ESTABLISHMENT OF THE HOUSES OF PARLIAMENT SERVICE AUTHORITY

Houses of Parliament Service Authority

7. (1) There is hereby established a body corporate to be known as the Houses of Parliament Service Authority of Trinidad and Tobago (hereinafter referred to as “the Authority”).

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of -

- (a) suing and being sued and may for all such purposes be described by that name;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of movable or immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts;
- (e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act which may lawfully done or performed by a body corporate.[Assess if necessary to spell this out]

Specific powers of the Authority

8. (1) For the purpose of performing its functions, the Authority may do any or all of the following:

- (a) to enter into contracts for any purpose of the Authority;
- (b) enter into deeds, contracts, or arrangements –
 - (i) to purchase, take on lease, sub-lease, licence, or sub-licence any land or buildings or parts of buildings, or to acquire any other interest in land, whether or not subject to a mortgage, charge, lease, easement, or restrictive covenant or other encumbrance;
 - (ii) to sell, transfer, assign, or otherwise dispose of any lease, or other interest in land or buildings or parts of buildings, whether or not subject to a mortgage, charge, lease, easement, or restrictive covenant or other encumbrance;
 - (iii) to erect, alter, rebuild, or add to any building;

- (iv) to develop or improve any land;
 - (v) to install partitioning in any building or part of a building;
 - (vi) to fit out any building or part of a building;
 - (c) grant leases, tenancies, sub-leases, licences, or sub-licences over land or buildings or parts of buildings held by the Authority, and create easements and restrictive covenants over such land or buildings, and accept surrenders or partial surrenders of interests granted by the Authority; and
 - (d) incur other obligations relevant to the duties and functions of the Parliamentary Authority.
- (2) to do anything reasonably necessary or expedient for, or incidental to, any of the matters referred to in subsection (1) above. .
- (3) This section does not limit the generality of section 11(2) (e).

Principal Functions of the Authority

9. (1) The principal function of the Authority shall be to provide administrative and support services to the House of Representatives and the Senate and to committees and members of Parliament which may include:
- (a) the provision of sufficient clerical staff, attendants and other staff to enable the Houses of Parliament and committees thereof to operate efficiently; and
 - (b) the provision of advice on parliamentary procedures and the functions of Parliament generally; and
 - (c) an accurate and efficient reporting of proceedings of the Legislature and of meetings of committees thereof as required; and
 - (d) the provision of adequate library and research facilities and services for members of Parliament; and
 - (e) the provision of dining facilities;
 - (f) the care of the parliamentary gardens and grounds;
 - (g) the provision of security services within the precincts of the Parliament for the safe, orderly and efficient conduct of the business of Parliament ; and
 - (h) the maintenance of parliamentary buildings.
- (2) The Authority shall have such other functions as are conferred or imposed upon it by or under this Act or any other enactment or as are determined by the Board from time to time.

Number and types of Departments in the Authority

10. There shall be such number and types of departments and such categories and classifications of staff under the Authority as the Board may, from time to time determine.

Seal

11. (1) The Authority shall have an official seal that shall be kept in the custody of the Corporate Secretary to the Board.

(2) The seal shall be used with the permission of the Board and every instrument to which the seal is affixed shall be signed by the Chairman and a member authorised by the Board to act in that behalf.

PART IV

HOUSES OF PARLIAMENT SERVICE AUTHORITY BOARD

Establishment of the Houses of Parliament Service Authority Board

12. There is hereby established the Houses of Parliament Service Authority Board (hereinafter referred to as “the Board”), the membership of which is prescribed hereunder.

Membership of the Board during term of Parliament

13. (1) During the term of each Parliament, the Board shall consist of the following:

- (a) the Speaker as Chairman;
- (b) the President of the Senate as Deputy Chairman;
- (c) the Leader in the House;
- (d) the Leader of the Opposition;
- (e) a Government Senator nominated by the Prime Minister;
- (f) an Opposition Senator nominated by the Leader of the Opposition;
- (g) 2 [Independent] Senators nominated by the President from among the Senators appointed pursuant to section 40(2)(c) of the Constitution; and
- (h) 2 other Members of the House of Representatives, one from the Government side of the House, and the other from the Opposition side of the House, nominated by respectively the Prime Minister and the Leader of the Opposition.

(2) To avoid any doubt, every member of Parliament who acts as a member of the Authority is, in so acting, acting in his or her official capacity as a member of Parliament.

14. The Board shall meet within one (1) month of the first sitting of the House of Representatives following a General Election.

Chairman and Deputy Chairman of the Board

15. (1) The Speaker is the Chairman of the Board and the President of the Senate is the Deputy Chairman of the Board.

(2) When there is a vacancy in the office of Speaker, or when the Speaker is (for whatever reason) absent from duty, the President of the Senate shall act as the Chairman of the Board.

Vacation of office by nominated members

16. (1) A member of the Board who holds office under section 13(1)(e)-(h) ceases to be a member of the Board if one of the following events occurs:

(a) the nomination is rescinded by the person making the nomination and the person making the nomination resolves to appoint to the Board, instead of that member, another member of Parliament:

(b) Parliament is dissolved or expires:

(c) the member ceases to be a member of Parliament before Parliament is dissolved or expires.

(2) A member of the Board who holds office because of a nomination may, by written notice to the chairperson of the Board, resign the office at any time.

(3) A member of the Board who holds office under section 13(1)(e)-(h) immediately before the dissolution or expiry of Parliament continues to hold office until the first meeting of the House of Representatives after the general election of its members.

Meetings of the Board

17. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business and in any case at least once every two (2) months at such place and time and on such days as the Board may determine.

(3) At all meetings of the Board, the Chairman, if present, shall preside.

(4) If the Chairman and the Deputy Chairman are absent from a meeting, the members present must appoint one of its members appointed pursuant to section 13(2)(g) to be the Chairman of that meeting.

(5) The Clerk of the House shall be the Adviser to the Board and must be present at every meeting of the Board.

(6) The Head, Legal Services, of the Authority shall perform the duties of Corporate Secretary to the Board for the term of each Parliament.

(7) The Chairman or in his absence the Deputy Chairman may at any time convene a special meeting of the Board, and shall do so within seven (7) days of the receipt by him of a written requisition therefor signed by at least three (3) members.

(8) If the Chairman or in his absence the Deputy Chairman fails to convene a special meeting of the Board pursuant to a requisition under subsection (7), the Secretary to the Board shall convene such meeting which shall be held within seven (7) days after the expiry of the period prescribed in that subsection.

(9) The quorum for a meeting of the Board shall be five (5) members inclusive of the Chairman [who shall include at least two (2) members from the Government and two (2) members from the Opposition] and at every meeting of the Board its members shall strive for unanimity in respect of the decision to be made on each question arising in the meeting.

18. No personal liability shall attach to a member of the Board for anything done, permitted to be done or omitted to be done in good faith in the course of the operations of the Authority under this Act.

Functions of the Board

19. (1) The Board shall perform the following functions:

- (a) the making of bye-laws in accordance with section 20 to guide the operation and management of the Authority;
- (b) the approval of terms and conditions of members of staff;
- (c) acting on the recommendation of the Clerk of the House, the creation of posts in the Authority;
- (d) the approval of travel abroad on business of the Authority or on other Parliamentary Business;
- (e) the approval of policy for the approval of general training of members of staff;
- (f) the approval of the Parliament's strategic planning for the Authority.
- (g) approve the general policy of the Management;
- (h) approve budget estimates in accordance with section 42 of this Act; and
- (i) any other function necessary for the expedient management of the Authority.

(2) The Board may from time to time appoint an independent tribunal of up to three (3) persons to arbitrate on appeals about promotions appointments and disciplinary action within the Authority brought by an employee of the Authority or the Clerk of the House in accordance with the bye-laws made under Section 20 (1) (e), provided that the tribunal may, subject to any written direction by the Chairman, regulate its own procedure:

By-laws

20. (1) The Board may make by-laws [for the purpose of giving effect to this Act and without prejudice to the generality of this provision may make by-laws]—

- (a) respecting the calling of meetings of the Board and the conduct of business at those meetings;
 - (b) governing the use by members of the Parliament of funds, goods, services and premises made available to them for the carrying out of their parliamentary functions;
 - (c) respecting the administration and management of the services and facilities;
 - (d) prescribing the terms and conditions of service, entitlements, responsibilities, authorities, obligations and liabilities pension and other retirement benefits of the Authority's officers and employees;
 - (e) respecting appeals about promotional appointments and disciplinary action within the Authority;
 - (f) respecting the contracting by the Authority for goods and services;
 - (g) respecting the financial procedures of the Authority;
 - (h) respecting occupational health and safety;
 - (i) respecting staff and related matters;
 - (j) respecting security; and
 - (k) respecting all such things as are necessary or incidental to the exercise of its powers and the carrying out of its functions and any other matter required by this Act to ensure the efficiency of the Authority.
- (2) The Speaker of the House and the President of the Senate respectively shall table before the House of Representatives and the Senate the by-laws made under this section on any of the first thirty (30) days after the making thereof.
- (3) When the House of Representatives or the Senate is not sitting, the Speaker or the President of the Senate respectively shall cause the by-laws made under this section to be deposited with the Clerk of the House or the Clerk of the Senate and such by-laws shall thereupon be deemed to have been tabled before the House of Representatives or the Senate.
- (4) By-laws made under this section shall be deemed not to be statutory instruments for the purpose of the Statutes Act.

Delegation of powers by Speaker

21.(1) The Speaker may delegate to a specified person any function, duty, or power (other than this power of delegation) that the Speaker has under this Act.

(2) A delegation must be in writing and signed by the Speaker.

(3) A delegate must exercise or perform functions, duties, or powers –

(a) in accordance with any condition attaching to the delegation and any general or special direction given by the Speaker; but

(b) otherwise in the same manner and with the same effect as if they had been conferred or imposed on the delegate directly by this Act.

(4) Every person purporting to act under a delegation is, in the absence of proof to the contrary, to be regarded as acting in accordance with the terms of the delegation.

Status of delegations

22.(1) The Speaker is not prevented from exercising or performing any function, duty, or power delegated under the preceding section.

(2) The Speaker may revoke a delegation at any time by written notice to the delegate.

(3) A delegation continues in force according to its tenor until it is revoked.

(4) If the person who made the delegation ceases to hold office as Speaker, the delegation continues to have effect as if made, –

(a) until the election of the next Speaker, by the Deputy Speaker; and

(b) after that election, by the next Speaker.

PART V

THE CLERK OF THE HOUSE

23. There shall be a Clerk of the House for Trinidad and Tobago -

(1) who shall be the Chief Executive Officer of the Authority and who, subject to this Act, shall manage and administer the Authority; and

(2) who shall be responsible to the Board for the management and administration of the Authority and for the general working and efficient conduct of the business of the Authority.

24. (1) The Clerk of the House shall be appointed by the President on the joint advice of the Prime Minister and the Leader of the Opposition.

(2) In the event the Prime Minister and the Leader of the Opposition cannot agree on the joint advice, the President shall appoint the Clerk of the House after consultation with the Prime Minister and the Leader of the Opposition.

25. A person appointed as Clerk of the House shall have at least ten (10) years' experience at the table of Parliament and may be appointed from within the Commonwealth.

26. No person is qualified to be appointed as Clerk of the House if that person-

(a) is or was at any time during the three (3) years preceding appointment -

(i) a member of the Senate;

(ii) a member of the House of Representatives;

(iii) a member of the legislature of any country in the Commonwealth;

(iv) a member of the Tobago House of Assembly;

(v) a member of a Municipal Corporation; or

(vi) a candidate for election to the membership of the House of Representatives, the Tobago House of Assembly, a Municipal Corporation, or to the membership of the legislature of any country in the Commonwealth;

(b) is an undischarged bankrupt;

(c) has at any time had a record of a criminal conviction for any indictable or summary offence which carries a term of imprisonment of three (3) months or more; or

(d) has been dismissed from the Public Service.

27. The Clerk of the House shall hold office in accordance with section 136 of the Constitution where applicable.

28. The Clerk of the House may exercise such functions and powers and perform such duties as are imposed on him by the Constitution or any other written law and in particular:

(1) shall, *subject to this Act*, be responsible to the Board for the general working and the efficient conduct of the business of the Authority and the efficient and economical management of the staff and assets of the Authority and shall cause a report to be presented to the Board on an annual basis in relation to the performance of these responsibilities;

- (2) shall manage of the affairs of the Authority;
- (3) shall manage the staff of the Authority, and shall be responsible for the appointment, promotion, discipline and transfer of members of staff of the Authority in accordance with the Regulations at the [] Schedule;
- (4) shall recommend the terms and conditions of employment of staff including remuneration, for the approval of the Board;
- (5) shall exercise the following procedural functions:
 - (a) render expert, non-partisan and impartial advice to the Speaker and to Members of the House of Representatives and of the Senate on Parliamentary practice and procedure; and
 - (b) carry out such other duties and exercising powers as may be conferred on him by law or by the Standing Orders and practices of the House and the Senate;
 - (c) in exercising the functions mentioned in paragraphs (a) and (b) above-
 - (i) the Clerk of the House shall be assisted by such other employees of the Authority as may be necessary; and
 - (ii) the Clerk of the House shall not act under the direction or control of any other person but in the performance of these functions shall be guided by the Standing Orders, rules of procedure, and precedents.
- (6) shall secure constituency offices for Members of the House and negotiating and entering into leases as the agent for and on behalf of the Authority; and
- (7) shall be the Accounting Officer under the Exchequer and Audit Act for the Authority.

Delegation of powers by the Clerk of the House

29. (1) The Clerk of the House may after consultation with the Board assign or delegate to a specified person any function, duty, or power (other than this power of delegation) that the Clerk of the House has under this Act.

- (2) A delegation must be in writing and signed by the Clerk of the House.
- (3) A delegate must exercise or perform functions, duties, or powers –
 - (c) in accordance with any condition attaching to the delegation and any general or special direction given by the Clerk of the House; but
 - (d) otherwise in the same manner and with the same effect as if they had been conferred or imposed on the delegate directly by this Act.
- (4) Every person purporting to act under a delegation is, in the absence of proof to the contrary, to be regarded as acting in accordance with the terms of the delegation.

Status of delegations

30. (1) The Clerk of the House is not prevented from exercising or performing any function, duty, or power delegated under the preceding section.

(2) The Clerk of the House may revoke a delegation at any time by written notice to the delegate.

(3) A delegation continues in force according to its tenor until it is revoked.

Performance of Functions of the Clerk of the House in the Clerk's Absence

31. (1) On the occurrence from any cause of a vacancy in the office of the Clerk of the House (whether by reason of death, resignation, or otherwise), and in the case of absence from duty of the Clerk (from whatever cause arising), and so long as that vacancy or absence continues the duties of the Clerk of the House of the Authority shall be exercised and performed by

(a) in the case where the absence of the Clerk is of a temporary nature – by the Clerk of the Senate and where the Clerk of the Senate is absent, by an officer of the Authority to whom the function, power or duty has been delegated by the Clerk of the House pursuant to section 29;

(c) in the case of a vacancy or in any other case – by an officer of the Authority appointed for the time being by the Board provided that such appointment shall not exceed three (3) months.

(2) The fact that a person exercises a function of the Clerk shall, in the absence of proof to the contrary, be conclusive evidence of the authority of the person to do so.

THE CLERK OF THE SENATE

32. There shall be a Clerk of the Senate for Trinidad and Tobago who shall not hold any other office of emolument whether in the public service or otherwise.

33. (1) The Clerk of the Senate shall be appointed by the President in accordance with the joint advice of the Prime Minister and the Leader of the Opposition.

(2) In the event the Prime Minister and the Leader of the Opposition cannot agree on the joint advice, the President shall appoint the Clerk of the Senate after consultation with the Prime Minister and the Leader of the Opposition.

34. A person appointed as Clerk of the Senate shall have at least seven (7) years' experience at the table of Parliament and may be appointed from within the Commonwealth.

35. **No person is qualified to be appointed as Clerk of the Senate if that person-**

(a) is or was at any time during the three (3) years preceding appointment -

- (i) a member of the Senate;
 - (ii) a member of the House of Representatives;
 - (iii) a member of the legislature of any country in the Commonwealth;
 - (iv) a member of the Tobago House of Assembly;
 - (v) a member of a Municipal Corporation; or
 - (vi) a candidate for election to the membership of the House of Representatives, the Tobago House of Assembly, a Municipal Corporation, or the legislature of any country in the Commonwealth;
- (b) is an undischarged bankrupt;
- (c) has at any time had a record of a criminal conviction for any indictable or summary offence which carries a term of imprisonment of three (3) months or more; or
- (d) has been dismissed from the Public Service.

36. Subject to sub-section (2), the Clerk of the Senate shall hold office in accordance with sections 136 of the Constitution where applicable.

37. (1) The Clerk of the Senate shall function as the Deputy to the Clerk of the House and shall perform such functions as delegated to the Clerk of the Senate by the Clerk of the House in accordance with section 29.

(2) Subject to subsection (2), the Clerk of the Senate shall perform only those functions prescribed by section 31(7) above and in relation to the Senate only.

(3) If the office of the Clerk of the House is vacant, or if for any reason the Clerk of the House is unable to exercise the functions of his office, the Clerk of the Senate shall have and may exercise all the functions, duties and powers of the Clerk of the House.

(4) On the occurrence from any cause of a vacancy in the office of the Clerk of the Senate (whether by reason of death, resignation, or otherwise), and in the case of absence from duty of the Clerk of the Senate (from whatever cause arising), and so long as that vacancy or absence continues the duties of the Clerk of the Senate of the Authority shall be exercised and performed by

- (a) in the case where the absence of the Clerk of the Senate is of a temporary nature—by an officer of the Authority to whom the functions duties and powers of the Clerk of the Senate have been delegated by the Clerk of the House subject to section 29.

(b) in the case of a vacancy or in any other case—by an officer of the Authority appointed for the time being by the Board provided that such appointment shall not exceed three (3) months.

Transitional/Saving

38. The holder of the office of Clerk of the House and the holder of the office of the Clerk of the Senate on the appointed day shall be deemed to have been appointed to those respective offices on the appointed day in accordance with the Constitution and this Act and the terms of service of these holders of these officers under this Act shall be calculated from the respective dates of their appointments to the substantive offices of Clerk of the House and Clerk of the Senate by the Public Service Commission.

PART VI FINANCIAL PROVISIONS

Establishment of Houses of Parliament Service Authority Fund

39. (1) There is established a fund to be known as the Houses of Parliament Service Authority Fund.
- (2) There shall be paid into the Fund -
- (a) such moneys as may, from time to time, be provided by Parliament;
 - (b) such moneys as may be borrowed by the Authority on such terms and for such purposes as the Clerk, in consultation with the Board, may determine;
 - (c) any moneys accruing to or received by the Authority from any other source.
- (3) There shall be paid out of the Fund all payments in respect of any expenses incurred in pursuance of the provisions of this Act.
- (4) The Authority may, with the approval of Parliament signified by resolution, establish such other funds as it may deem necessary.

BANK ACCOUNTS

40. The Authority shall open and maintain such bank accounts as are necessary for the exercise of its functions.

Estimates of expenditure

41. (1) At least three months before the commencement of each financial year, the Clerk shall cause to be prepared, estimates of all the expenditure required for the purposes of this Act for that year and shall present such estimates to the Board for review.
- (2) The Board shall review the estimates forwarded under subsection (1) and may make such alterations thereto as it may deem appropriate and shall thereafter agree upon those estimates.
- (3) The Minister of Finance and the Permanent Secretary in the Ministry of Finance shall ex officio be members of the Board for the exercise by the Board of the function referred to in subsection (3) above.
- (4) The Chairman of the Board or some other member thereof authorised by the Board in that behalf shall lay the estimates agreed by the Board before the House and the Senate.
- (5) Upon the laying of the estimates presented to Parliament under subsection (4), the estimates as presented shall be incorporated into the Appropriation Bill and upon the passage of the Appropriation Bill all moneys from time to time required for the purposes of this Act shall be paid from the Consolidated Fund into the Houses of Parliament Service Authority Fund.

Accounts and audit

42. (1) The Clerk of the House shall ensure that proper books and records of accounts of the Authority are kept and maintained.
- (2) Within three months after the end of each financial year, the Clerk of the House shall submit to the Board for transmission to the Auditor-General, the accounts of the Authority for the year.
- (3) Notwithstanding the provisions of any other written law, the accounts of the Authority shall be audited and reported upon by the Auditor-General.

PART VII

STAFF AND RELATED MATTERS

Staff of the Authority

43. (1) The Authority may employ on such terms and conditions as it thinks fit in accordance with the provisions of this Act such staff as it considers necessary for the due efficient and economical discharge of its functions and exercise of its powers under this Act and for this purpose shall establish a classification and compensation scheme.

(2) The employees of the Authority shall be paid such remuneration and allowances and shall be employed on such terms and conditions as may from time to time [subject to any applicable industrial award or industrial agreement] be decided by the Clerk of the House, subject to the approval of the Board.

(3) The Board must ensure that the remuneration, allowances, benefits and terms and conditions of employees of the Authority are comparable to those of public officers who perform similar duties.

(4) Employees of the Authority are not public officers.

Transfer of Officers

44. (1) This section applies to an officer who on the date of assent of this Act-

- (a) holds a permanent appointment to; or
- (b) holds a temporary appointment to, and has served at least two continuous years in,

a public office specified in the [] Schedule.

(2) A person to whom this section applies may, within three months of the date of assent of this Act, exercise one of the following options:

- (a) voluntarily retire from the Public Service on terms and conditions agreed between him or his appropriate recognised association and the Chief Personnel Officer;
- (b) subject to subsection (3), transfer to the Authority with the approval of the Authority and the Public Service Commission on terms and conditions no less favourable than those enjoyed by him in the Public Service; or
- (c) remain in the Public Service provided that an office commensurate with the office held by him in the Public Service prior to the date of assent of the Act, is available.

(3) The superannuation benefits which have accrued to a person who exercises the option under sub-paragraph 44(2)(b) above shall be preserved at the date of his employment by the Authority, and such person shall continue to accrue superannuation benefits under the Pensions Act during his employment with the Authority and his employment as aforesaid shall be considered pensionable service within the meaning of the Pensions Act.

Secondment of Officers

45.(1) An officer in the public service or in a statutory authority may, with the consent of the Authority and with the approval of an appropriate Service Commission or statutory authority, consent to be seconded to the service of the Authority.

(2) Where secondment is effected, the Authority shall make such arrangements as may be necessary to preserve the rights of the officer seconded to any pension, gratuity or other allowance for which he would have been eligible had he not been seconded.

(3) A period of secondment shall not exceed five years.

Casual/Short Term Employees

46. The Authority may employ persons to perform specific tasks that the Authority considers necessary for the due performance of its functions and the exercise of its powers under this Act, on such terms and conditions as are agreed between the Authority and the person and subject to such maximum limit of remuneration as the Clerk of the House, subject to the approval of the Board, determines.

Continuation of association representation

47. Subject to any written law employees of the Authority who have transferred from the Public Service shall, for the purpose of collective bargaining, continue to be represented by the relevant representative association that formerly represented them.

Existing agreements

48. Any agreement applicable to former officers in the public service or a statutory authority who have transferred to the service of the Authority shall be valid and binding on the relevant representative association and the Authority and shall be deemed to be registered under the Industrial Relations Act.

Continuation of collective agreements and union representations

49. Upon the commencement of this Act and subject to any written law a collective agreement or other agreement that immediately prior to the commencement of this Act affected employees who were employed in the public service or a statutory authority shall continue to have effect in relation to such employees.

Right of employees to form or join associations or trade unions

50. Employees may form an association which may be registered as a trade union or may join a trade union.

Clerk and Houses of Parliament Service Authority officers and employees are employees in industrial law

51. (1) Each of the Authority's officer or employee who receives salary or wages (other than on a contract basis) is an employee and the Clerk is his or her employer within the meaning of the Industrial Relations Act and that Act applies to them accordingly.

(2) The Clerk is an employee and the Board is the Clerk's employer within the meaning of the Industrial Relations Act and that Act applies to them accordingly.

Behaviour in parliamentary precinct at discretion of speaker/chairman

52. (1) All persons entering or upon the parliamentary precinct shall comply with the directions of the Speaker as to the behaviour, demeanour and conduct of such persons.

(2) Directions of the Speaker may take the form of by-laws prescribing behaviour and conduct made from time to time by the Speaker.

Protection from liability

53.(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any officer or employee of the Authority in respect of any act done bona fide by him in the execution or intended execution of his lawful duties.

(2) Where any person is exempt under subsection (1) from such liability by reason only of the provisions of this section, the Authority shall be liable to the extent that it would be if an officer or employee were an agent of the Authority.

Mode of service

54. Any notice or other writing required or permitted by this Act to be given to any person may be given to the person –

- (a) by delivering it to him or her personally; or
- (b) by leaving it for the person at his or her place of work or place of residence last known to the person giving the notice or writing; or
- (c) by post addressed to the person at his or her place of work or place of residence last known to the person giving the notice or writing.

Key Stakeholders identified:

- *Public Services Association (PSA)*
- *National Union of Government and Federated Workers (NUGFW)*
- *Public Service Commission*
- *The Permanent Secretary, Ministry of Finance and the Economy*
- *Ministry of Finance and the Economy (Budgets Division)*
- *The Chief Personnel Officer*
- *The Permanent Secretary, Ministry of Public Administration*
- *The Permanent Secretary & Head of the Public Service, Office of the Prime Minister*
- *The Auditor General*
- *The Ombudsman*
- *Current Members of Parliament (H.O.R. & Senate)*
- *Staff of the Office of the Parliament*

SUBMISSIONS RECEIVED FROM STAKEHOLDERS

OFFICE OF THE PRIME MINISTER COMMENTS ON THE DRAFT HOUSE OF PARLIAMENT SERVICE AUTHORITY BILL, 2014

INTRODUCTION

This paper seeks to provide brief comments from the Permanent Secretary to the Prime Minister & Head of the Public Service on the proposed Legislation to provide for the Incorporation of a Body Corporate to be known as the “*Houses of Parliament Services Authority*” to provide for the administrative management of the Parliament of the Republic of Trinidad and Tobago. This submission is being done as a result of the request of the Speaker of the House of Representatives. The comments as follows are provided under two section - Content and Format.

COMMENTS ON CONTENT

- The intent of Clause 4 (1) b (Page 3) should be to retire all liabilities of the Parliament under the current arrangement so as to give the new entity a “clean” start.
- Clause 5 C, (page 4) due to the broad meaning of term “effective” it is recommended that the term should be defined, under definition of terms. Under the same clause a section (e) should be added to read - to develop a Performance Management System for the employees of the Authority. (This is critical in today’s world where focus is on active performance management).
- Clause 6 (2) (page 5) speaks to the staff of the Authority not receiving directions from any source external to the Authority. A question can be asked - what about directions

from law enforcement, Ministry of Finance and the Economy on finance matters, and Auditor General Department? In the same clause (3) there is reference to non-partisan and apolitical operation of the Authority by members. It is suggested that defined penalties should be provided for breaches since currently, none are listed.

- Clause 9 speaks to the functions of the authority and the provision of various services. Given the importance of IT services to any modern organization this should be included as “inclusion e”. Example of wording, “to provide the tools of technology and related infrastructure and support to aid in the work of the Authority”.
- Clause 17 Section 9 (page 10) which speaks to number required for a quorum must be 5. An observation is that the only natural body, which can muster this number, will be the government. Hence this may prove to be an advantage to the government in power and a disadvantage to the other grouping.
- Clause 19 (e) (page 11) which addresses functions to be performed by the Board states approval for training policy etc., this should state “approval for all policies”.
- Clause 24 Section 2 (page 13) as stated gives the President “powers” via the right to appoint the Clerk of the House which enlarges the functions and powers of the President to influence the affairs of Parliament.
- Clause 32 (page 17) also increases the functions and powers of the President to appoint the Clerk of the Senate.
- Clause 40 (page 20) which speaks the Authority’s power to open a bank account should specify that the Board would be the one to determine signatories
- Clause 41 (3) (page 20) - if the positions named are to be part of the Board this should be mentioned in the relevant section that deals with the appointment and composition of the

Board. In addition, in accordance with Subsection (2) will the ex-officio members have voting rights?

COMMENTS ON FORMAT

1. *Meeting of the Board (Pg.9, Par.17)*

There is an error in the numbering of the provision. In particular, from provision 1, the numbering goes to provision 3.

2. *Meeting of the Board (Pg.9, Par.17-4)*

There is an error in the referencing of a previous provision [13(2) (g)] in regard to nominating a Chairman of the Meeting in a circumstance when both the Chairman and Deputy Chairman are absent.

3. *Part IV, The Clerk of the House (Pg.14, Par.26)*

An omission in the formatting as the letter “a” is omitted from the start of the provision.

4. *Delegation of Powers by the Clerk of the House (Pg.16, Par.29)*

An error in the formatting as provision 3, sub points are (c) and (d) and should read (i) and (ii).

5. *The Clerk of the Senate (Pg.18, Par.35)*

There is duplication in the numbering as there are two numbers (v).

-END-

Suggested Amendments to and Comments by the Auditor General on
the Draft Houses of Parliament Service Authority Bill, 2014

Clause of the Bill	Suggested Amendments/Comments
3	A decision will have to be taken as to whether the Authority will be called “Houses of Parliament Service Authority” as shown at clause 3 (Interpretation) or whether the Authority is to be referred to as “Houses of Parliament Service Authority of Trinidad and Tobago “ as stated at clause 7(1). This will affect headings under Part II and Part III of the Bill. Also to be considered is whether “The” will be included in the name of the Authority.
7(2)(c)	More detail should be included in this sub-clause regarding the precise scope of the “borrowing and lending” abilities of the Authority. For example, this subsection could stipulate that the Authority may borrow any money required by it for the efficient exercise of its functions or for meeting its obligations - similar to the wording at section 19(a) of the Regional Health Authorities Act, Chapter 29:05. Further, is it the intention under this sub-clause that the Authority be capable of granting loans to its employees? If this is so, it is suggested that this be specifically provided for as has been done under section 18(f) of the Regional Health Authorities Act, Chapter 29:05.
13	It is suggested that Board members should have experience in Law and Finance and this could be included in the legislation.
13	The International Federation of Accountants (IFAC) issued a Consultation Draft in June 2013 on the issue of good governance in the public sector. This Consultation Draft suggested that in order for good governance to be achieved at any level, there must be maintained a clearly defined division of power/responsibility among governing bodies. Consideration could be given as to whether non-Parliamentarians should be appointed to the Board.
13	Clause 13 provides for the Board to be comprised of ten members. It is suggested however that provision be made in this clause for the Board to be comprised of an odd number of members or for the Chairman of the Board to have a casting vote. This should be done so as to avoid a situation in which there is a hung Board on any decision to be made by the Board. It is noted however that under the existing clause 17(9) members are to strive for unanimity in decision making.

Clause of the Bill	Suggested Amendments/Comments
20 (3)	This sub-clause could further provide that where the Speaker or the President of the Senate deposits by-laws with the Clerk of the House or the Clerk of the Senate, the Clerk of the House or Clerk of the Senate is to cause these by-laws to be tabled (before the House or the Senate) within a prescribed number of days of the first sitting of the House or Senate.
23	A subsection (3) should be added to section 23 providing “The Clerk of the House shall not hold any other office of emolument whether in the Public Service or otherwise.” (This would arise if section 23 is reworded as presented in the Draft Bill illustrating suggested amendments).
28(7)	This clause purports to make the Clerk of the House the Accounting Officer for the Authority “under the Exchequer and Audit Act”. Is it the intention therefore that the Authority will be subject to the various provisions and requirements of the Exchequer and Audit Act, Chapter 69:01? If this is indeed the intention, it should be borne in mind that there are far reaching implications for bodies subject to the provisions and requirements of this Act. For example, this Act along with the Financial Regulations issued pursuant to section 45(1) of the Act, sets out requirements to be followed regarding the presentation of accounts. This may be seen under section 24(1)(b) of the Act. Further, section 24(1)(b) of the Act and the Financial Regulations set out a multitude of requirements which must be complied with by Accounting Officers subject to the legislation.
Part VI	The financial year of the Authority should be defined in Part VI of the Act.
39(3)	This sub-clause refers to expenses only. Considering that clause 7(2)(c) gives the Authority the power to lend money as well, it is suggested that this sub-clause be amended to read “There shall be paid out of the Fund all payments in respect of any expenses incurred in pursuance of the provisions of this Act or any loans granted for whatever purpose.”
41(1)	This clause requires the Clerk of the House to present estimates of the expenditure of the Authority to the Board at least three months before the start of each financial year. It should be borne in mind however that under the Exchequer and Audit Act these estimates of the Authority would have to be submitted along with estimates for the entire country. The deadline for said submission is currently set at five months prior to the commencement of the financial year. The three month requirement under this clause is not consistent with this current requirement.

Clause of the Bill	Suggested Amendments/Comments
42	It should be included in section 42 of the Act that the accounts of the Authority are to be kept and maintained in accordance with generally accepted accounting standards. A new clause 42(4) should be added to the Bill providing “The provisions of section 116(4) of the Constitution shall apply.” This is in relation to the submission of audited financial statements by the Auditor General to the Speaker of the House of Representatives, the President of the Senate and the Minister of Finance.
44(3)	It should be borne in mind that where persons continue to accrue superannuation benefits under the Pensions Act, Chapter 23:52, a contribution is usually made to the Treasury and this will have implications for the Budget of the Authority.
51(2)	Is this sub-clause inconsistent with clause 27 considering that office holders appointed pursuant to section 136 of the Constitution have not traditionally been considered “employees” for the purposes of employment law? Further “employee” is not defined in the Industrial Relations Act. In addition, “employer” is defined at section 2 of the Act as “a person who employs a “worker”. As such, the Board cannot be the Clerk’s employer under the Act considering that the definition of “worker” excludes a person holding the position of Clerk as provided for in the Draft Bill.
39(1)	Section 39(1) of the draft legislation speaks to the creation of a Fund and details the moneys to be paid into the Fund. It is suggested that this aspect be reviewed. According to Wikipedia “a fund is a self-balancing set of accounts, segregated for specific purposes in accordance with laws and regulations or special restrictions and limitations.”

A Legislative Proposal
The Houses of Parliament Service Authority Bill, 2014
Comments from the Ombudsman

The Ombudsman acts as an impartial arbiter in disputes between aggrieved persons and the executive in instances where they suffered an injustice as a result of administrative error made by a government department or agency.

At this time, the Office is wholly dependent on other government departments for the disbursement of funds for its operations, provisions of goods and services, and more importantly, the selection and recruitment of staff. Such arrangements can be viewed as a serious derogation from the independence of the Ombudsman since an impression can be created that the Office is merely another government department akin to that of a Ministry.

However, because of the unique position of the Office, as provided for under the Constitution of the Republic of Trinidad and Tobago (the Constitution), this Office cannot be regarded as a Ministry or an arm of Government. The Office falls under the aegis of Parliament and the Ombudsman, as an officer of Parliament, should be given greater autonomy in selecting the persons who are to be employed to work in the Office.

Section 92 of the Constitution provides for the appointment of staff to the Office. Section 92(1) states that the “Ombudsman shall be provided with a staff adequate for the efficient discharge of his functions.” Section 92(2) specifically stipulates that “The staff of the Ombudsman shall be public officers appointed in accordance with section 121(8).”

I hold the view that the staff of the Ombudsman should not be comprised solely of public officers drawn from other government departments. This is specially so in the case of the recruitment of an Investigator. Investigators should be persons of varied backgrounds and possess certain skills and training beyond the average clerical officer which will allow them to assist the Ombudsman in fulfilling his mandate under the law in a constructive manner. The post

of Investigator should not be seen as merely a promotional avenue where the officer will obtain certain allowances which will enhance his pay packet while he continues to operate as a Clerk in the Public Service, a pusher of paper.

An Investigator must be able independently to gather facts, analyse the problem, undertake the required research and after a thorough evaluation of the case submit a report with a recommendation on how to solve the problem.

Investigations may involve fieldwork, site visits and interviewing persons. Therefore, an Investigator must be fair and ever ready to safeguard the rights of individuals in the performance of his duties completely independent of politics and bureaucracy.

Consequently, it is imperative that Investigators view their position with the importance that is expected as opposed to the mindset that it is a promotional position within the Public Service.

Administrative staff should, however, be public officers who have a wealth of knowledge and experience in the machinery of general and civil service rules and regulations.

While the Public Service Commission (PSC) cannot appoint or transfer a member of staff without first consulting the Ombudsman as provided for in section 121 (8) of the Constitution, one has to be certain that the officers so appointed understand their roles and functions while in the employ of the Office of the Ombudsman.

An Ombudsman is appointed for a term of years but is eligible for re-appointment. However, during that term, the Ombudsman has ultimate control and authority over the Office. As an officer of Parliament, he is answerable only to Parliament. He is not subject to the authority of a Minister of Government.

Therefore, public officers, including the Administrative Head, must consult with and carry out the instructions of the Ombudsman. They are free to make recommendations for changes in

policies and procedures that obtain in the Office but it must be remembered that the Ombudsman is the final arbiter to determine whether any recommendations proffered are accepted or rejected.

Permitting the Ombudsman to have the authority to select and recruit persons to be employed in the Office of the Ombudsman will remove any ambiguity which may arise as to who is in charge of the operations of the Office.

Consideration should also be given to the proposal that the office should be provided with Vote sufficient for the complete operation of the office in an independent manner. The Ombudsman will be answerable to the Auditor General in respect of expenditure from the said Vote.

Surprisingly, although the Ombudsman is an officer of Parliament, it has been noted that there is no reference to the position of Ombudsman in the Legislative Proposal with respect to the Houses of Parliament Service Authority Bill, 2014.

Submitted please.

Lynette A. Stephenson, S.C.
Ombudsman



Republic of Trinidad and Tobago

SENATOR HELEN DRAYTON

Comments and Recommendations

HOUSES OF PARLIAMENT SERVICE AUTHORITY BILL 2014

April 27th 2014

I support the underlying principle of strengthening Parliament and making it more autonomous. The following are observations and recommendations.

These observations and recommendations are strictly from the viewpoint of governance and the inherent conflict between the role and functions of the proposed Board and the role and functions of the Clerk of the House.

There is need for clarity with respect to the role of the Chairman of the Board as distinct from the Speaker of the House of Representatives.

I am not clear on the use of the phrase Board of Management. From a corporate governance point of view, I am assuming it is a Board of Governors. Suffice it to say, Parliament's day to day management and administrative operations, as distinct from Chamber operations, should rest solely with the position of Clerk of the House.

5.(b)...for the purpose described in paragraph (a) above, to establish an independent non-partisan Parliamentary Service Authority which shall be managed by a Board for the purpose of exercising and performing such duties as are conferred upon it by this Act or any other written law, and that is efficient and effective in serving the needs of the Parliament of the Republic of Trinidad and Tobago.

1) Is this a Board of Management or a Board of Governors? Management is usually the responsibility of the Management. The word management is analogous to administration.

2) Policy and oversight functions are usually the responsibilities of a Board or Directors or a Board of Governors.

3) There appears to be a contradiction to say the Authority shall be **managed** by a Board, which will give direction to the Clerk of the House, and at the same time describe the position of Clerk of the House as an independent position, albeit independent is accepted as interdependent for all intents and purposes.

RECOMMENDATION: I recommend the name of the Board be amended to Board of Governors, which is in keeping with the intended objective of the legislation and role of the Board.

Membership of the Board during term of Parliament

13. (1) During the term of each Parliament, the Board shall consist of the following:

- (a) the Speaker as Chairman;
- (b) the President of the Senate as Deputy Chairman;
- (c) the Leader in the House;
- (d) the Leader of the Opposition;
- (e) a Government Senator nominated by the Prime Minister;
- (f) an Opposition Senator nominated by the Leader of the Opposition;
- (g) 2 [Independent] Senators nominated by the President from among the Senators appointed pursuant to section 40(2)(c) of the Constitution; and
- (h) 2 other Members of the House of Representatives, one from the Government side of the House, and the other from the Opposition side of the House, nominated by respectively the Prime Minister and the Leader of the Opposition.

1) This structure does not appear to be in keeping with the non-partisan role and function of the Board.

2) It does not facilitate representation from more than two political parties, which is contrary to all democratic principles. It is not predictable that there will be two political parties represented in the future. It is not so now.

3) There appears to be an imbalance of persons represented by one political party or associated with one political party.

4) While the non-partisan role of the Speaker of the House and the President of the Senate is appreciated, they are usually associated with

the ruling party. This commentary is not intended to suggest, and does not suggest, in anyway, these persons, now or in the future, are not/would not be impartial in the exercise of their duties.

5) It is appropriate for members of parliament, as key stakeholders, to be involved in the process of governance of Parliament. However, it is prudent the structure of the Board does not facilitate their dominance of what should be a non-partisan, a-political, Board of Governors.

RECOMMENDATIONS and reasons for caution include:

a) The tender process. If the intent is to make Parliament more independent/autonomous, then the Board, which will be made up mostly of politicians, should not have authority to give any directions to management with respect to the tender process. The aspect of operating within proper tender procedures is acknowledged.

(b) As long as the Board is mandated to approve manpower plans then compensation, and additions or eliminations of positions are at risk of political interference including the position of Clerk of the House and Clerk of the Senate.

(c) Regarding the Parliamentary Channel, the Board should not have authority to give routine instructions or directions to management concerning the contents of the Parliamentary Channel. The Channel should be subject to specific policies, which will be approved by the Board.

All policies I have seen, on the role and function of boards, and I have sat on several, usually have a catch all phrase giving the Board the power to take actions as it deems necessary. I have to assume any instruments for this Board will have similar content. Therefore, caution is recommended with respect to the position of Clerk of the House and Senate respectively.

The fact the Board may operate on the basis of consensus, is beside the point. Legislation must protect the position of Clerk of the House, Clerk of the Senate, the management of Parliament, and management of the Parliamentary Channel from undue interference.

6) RECOMMENDED OPTIONS FOR THE APPOINTMENT OF CHAIRMAN AND DEPUTY CHAIRMAN: The Chairman and Deputy Chairman should be persons appointed by the President of the Republic in his sole discretion for a term of seven years.

Accordingly, the Chairman should have a right of veto, with respect to board decisions, in order to preserve the spirit and intent of the proposed law with respect to the Authority as “a non-partisan Parliamentary Service Authority.”

This recommendation recognises the President of the Republic as the Head of Parliament. No one should have a veto on the President's appointments.

7) **Alternatively**, the President could appoint the Chairman from among the Independent Senators, but the term would have to be for

five years. However, there will be an inherent weakness in the five year period, because changes are likely to occur at the beginning of every new parliamentary term. Smooth continuity in governance of the Authority is important and facilitated by legislation.

I am, therefore, strongly in favour of a non-aligned civilian with at least ten years of continuous experience in corporate governance of a fairly large entity. Legal experience is not necessary, but the right calibre of person with such a background would be versed (in a strategic/governance context) in legal matters, accounting and finance, strategic human resource management and succession planning, and other important aspects of governance, and also, will be sufficiently wise to political dynamics. This person would have previously held positions of Chairman, or Executive Chairman, or Executive Director.

Qualifications and fit and proper guidelines for the positions of Chairman and Deputy Chairman should be clearly stated in the law.

7) Representatives of the House and Senate on the Authority are subject to change anytime during the five-year period of Parliament. The Government and/or Opposition leaders could recall their representatives anytime. The Board as configured may have changes possibly every year. The proposed structure of the Board brings to the fore the issue of continuity.

I recommend a minimum period of 3-5 years for board members other than the Chairman and Deputy Chairman. This will be subject to good reason for recall. The intent here is to ensure continuity of the Authority's business.

8) The Corporate Secretary should have a term of office of seven years and have had at least seven years of legal experience at a senior level.

21. (1) The Speaker may delegate to a specified person any function, duty, or power (other than this power of delegation) that the Speaker has under this Act.

This clause is contradictory. It is not practical to delegate a function, duty, or power to someone else and simultaneously retain it. There is a difference between delegating and giving instructions.

What is meant by specified person? Does this mean the Speaker's power could be delegated to a person at any position level in Parliament or a contract person, and with any level of qualification and experience? Can the Speaker delegate to a person a substantive function and

corresponding power to a position lower than the Clerk of the House and Chief Executive Officer of the Authority, or similarly below the Clerk of the Senate?

22. (1) The Speaker is not prevented from exercising or performing any function, duty, or power delegated under the preceding section.

This bill confuses the role of Chairman of the Authority and the role of Speaker of the house. This Bill is Speaker centric and facilitates the Speaker to be a law unto himself/herself in the context of the Authority vis-a-vis the Chamber of the House of Representatives.

RECOMMENDATIONS: Limits of Authority are recommended. Those limits should be to the extent expected of the Chairman of a Board of Governors, which is broad policy—not management or the administrative affairs of Parliament.

It is to be noted, the role of a Chairman is usually exactly as the name implies, and therefore, a Chairman will not normally have powers to act outside of decisions of the Board, which he/she chairs. This Bill breaches that principle and gives the Speaker (not even the Chairman) the power to take actions unknown to the rest of the Board and the CEO.

24 (1) The Clerk of the House shall be appointed by the President on the joint advice of the Prime Minister and the Leader of the Opposition.

The Clerk of the House and the Clerk of the Senate should be appointed by the President of the Republic in his sole discretion. The President of the Republic is the Head of Parliament. Refer note 24(2).

24 (2) In the event the Prime Minister and the Leader of the Opposition cannot agree on the joint advice, the President shall appoint the Clerk of the House after consultation with the Prime Minister and the Leader of the Opposition.

This clause and 24(1) is the same thing and it emphasises why the President must appoint these positions in his sole discretion.

25. A person appointed as Clerk of the House shall have at least ten (10) years' experience at the table of Parliament and may be appointed from within the Commonwealth.

What does "table" mean?

26. No person is qualified to be appointed as Clerk of the House if that person-

- (a) is or was at any time during the three (3) years preceding appointment -
 - (i) a member of the Senate;
 - (ii) a member of the House of Representatives;
 - (iii) a member of the legislature of any country in the Commonwealth;

- (iv) a member of the Tobago House of Assembly;
- (v) a member of a Municipal Corporation; or
- (vi) a candidate for election to the membership of the House of Representatives, the Tobago House of Assembly, a Municipal Corporation, or to the membership of the legislature of any country in the Commonwealth;

Refer 21 (1) It is hardly likely that persons who were three years prior the positions of Clerk of the House or Clerk of the Senate becoming vacant, a member of the House of Representatives or a known member of any political party would be accepted by either the Leader of Government or Leader of the Opposition, depending on the person's prior political party affiliation. This is a prescription for politicising these positions, and discord. This is not practical.

These persons must not be perceived to have ever been aligned to a political party.

27 (d) ...has been dismissed from the Public Service.

Why the restriction to the Public Service?

29. (1) The Clerk of the House may after consultation with the Board assign or delegate to a specified person any function, duty, or power (other than this power of delegation) that the Clerk of the House has under this Act.

What is meant by any person? The Bill should be more specific. It has to be a person with competence in relation to the delegated function, duty, or power and at a certain level.

30. (1) The Clerk of the House is not prevented from exercising or performing any function, duty, or power delegated under the preceding section.

How could an officer delegate responsibilities yet simultaneous perform them?

Does this mean the Clerk could delegate responsibilities but retain the accountability as in the case of needing assistance and therefore, assigning some of the work to someone else? Once power is properly delegated to another person that person has full authority to carry out the specific responsibility and is fully accountable for any consequences arising from their performance.

(2) A delegation must be in writing and signed by the Speaker.

(3) A delegate must exercise or perform functions, duties, or powers—

(a)...in accordance with any condition attaching to the delegation and any general or special direction given by the Speaker.

This is not a function, duty or power delegated. It is an instruction to do something and therefore the Speaker remains accountable for any consequences arising from the performance.
..but

(b)...otherwise in the same manner and with the same effect as if they had been conferred or imposed on the delegate directly by this Act.

What does this mean?

34. A person appointed as Clerk of the Senate shall have at least seven (7) years' experience at the table of Parliament and may be appointed from within the Commonwealth.

Same comment as for the corresponding section on Clerk of the House.

42. (2) within three months after the end of each financial year, the Clerk of the House shall submit to the Board for transmission to the Auditor-General, the accounts of the Authority for the year.

When would the Board submit the accounts to the AG – should be within 1-3 months.

50. Employees may form an association which may be registered as a trade union or may join a trade union.

If the Clerk of the House is the CEO in the true capacity of a CEO then it will be unusual for this position to be deemed a worker under the Industrial Relations Act. A CEO is usually involved in recommending policy, and sits in Board meetings, although he/she cannot vote.

51. (1) Each of the Authority's officer or employee who receives salary or wages (other than on a contract basis) is an employee and the Clerk is his or her employer within the meaning of the Industrial Relations Act and that Act applies to them accordingly.

This requires clarity. The interpretation is, although the Clerk of the House is the CEO and the employer of all "employees" he/she will not have authority over contract employees. Does this mean the Board can hire persons on contract without the knowledge and agreement of the CEO and give directions to contract employees? What is the status of a contract worker in relations to the Clerk of the House? What is the status of a contract employee within the meaning of the Industrial Relations Act?

52. (1) All persons entering or upon the parliamentary precinct shall comply with the directions of the Speaker as to the behaviour, demeanour and conduct of such persons.(2) Directions of the Speaker may take the form of by-laws prescribing behaviour and conduct made from time to time by the Speaker.

Clarity is required here with respect to the role of the Speaker as distinct from the Chairman of the Board of "Management." What is meant by "Persons"...members of the public?

54. Any notice or other writing required or permitted by this Act to be given to any person may be given to the person...

Does this exclude delivery by electronic means? It appears so, although Parliament's objective is to be as paper-free as possible.

A handwritten signature in black ink, appearing to read 'Helen Drayton'.

Senator Helen Drayton

Independent Senator



June 4, 2014

The Secretary
Joint Select Committee on the Legislative Proposal – Parl. Autonomy
Office of the Parliament of Trinidad and Tobago
Level 3, Tower D
International Waterfront Centre
1A Wrightson Road
Port of Spain

Dear Madam

Joint Select Committee – Legislative Proposal
CALL FOR SUBMISSIONS

I refer to your letter dated May 7, 2014, on the above subject.

The Public Service Commission is vested by the Constitution with powers to appoint, promote, transfer and exercise disciplinary control over public officers. To quote Lord Diplock in the Privy Council judgment of *Endell Thomas v Attorney General of Trinidad and Tobago* (1981) 32 WIR 375, the whole purpose of the relevant Chapter of the Constitution is “to insulate members of the Civil Service... from political influence exercised directly upon them by the Government of the day. The means adopted for doing this was to invest in autonomous commissions, to the exclusion of any other person or authority, power to make appointments to the relevant service, promotions and transfers within the service and power to remove and exercise disciplinary control over members of the service.” The effect of the proposed legislation would be to remove from the jurisdiction of the Commission some 142 public officers who currently work for the Parliament as part of the establishment (clause 44) and make them the responsibility of the Clerk of the House (clause 28). Clause 38 would, in turn, give responsibility for the appointments of the Clerk of the House and the Clerk of the Senate to the Authority.

We also note that under clause 44 these public officers can take early retirement, transfer to the Authority or transfer to the wider public service, if possible. Several of these posts are unique to the Parliament and it may be that they cannot be absorbed into the wider public service. Examples of these posts are the Food Service Attendants and the Hansard Editor. The officers who choose to transfer to the Authority are to do so with the approval of the Authority and the Commission on terms and conditions no less favourable than those enjoyed by them in the public service (clause 44(2)) and superannuation benefits are to be preserved (clause 44(3)). The Commission agrees that transfer of officers to the Authority should be made subject to consultation with the Commission if this proposal is implemented.

Under section 92(2) of the Constitution, the staff of the Ombudsman shall be public officers appointed in accordance with section 121(8). Section 121(8) requires the Commission to consult with the Ombudsman before any appointment or transfer of a member of staff of the Ombudsman's office. We have noted that the proposed legislation is silent with regard to any consultation with the Ombudsman prior to the appointment or transfer of a member of the staff of the Ombudsman's office, and we question whether this omission was an oversight.

The Commission trusts that these concerns would be fully explored and every effort made to ensure that the rights of officers are safeguarded.

A handwritten signature in blue ink, appearing to read 'Marjorie Thorpe', is positioned above the printed name.

Marjorie Thorpe Ph.D
Chairman
Public Service Commission

Minutes of Proceedings

MINUTES OF THE FIRST MEETING OF THE JOINT SELECT COMMITTEE OF PARLIAMENT APPOINTED TO CONSIDER AND REPORT ON THE LEGISLATIVE PROPOSAL ENTITLED, “THE DRAFT HOUSES OF PARLIAMENT SERVICE AUTHORITY BILL, 2014” HELD IN THE ARNOLD THOMASOS ROOM (EAST), LEVEL 6, OFFICE OF THE PARLIAMENT, TOWER D, PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN
ON
FRIDAY APRIL 11, 2014 AT 11:36 A.M.

PRESENT

Committee Members

Mr. Wade Mark, MP	Chairman
Mr. Timothy Hamel-Smith	Member
Mr. Jairam Seemungal, MP	Member
Mr. Emmanuel George	Member
Dr. Roodal Moonilal, MP	Member
Mrs. Camille Robinson-Regis	Member
Mr. Elton Prescott, SC	Member

ABSENT

Mr. Colm Imbert	Member (excused)
Ms. Marlene McDonald	Member (excused)
Mr. Anand Ramlogan, SC	Member (excused)

Secretariat

Mrs. Jacqueline Sampson-Meiguel	Clerk of the House
Mrs. Nataki Atiba-Dilchan	Clerk of the Senate
Mr. Ralph Deonarine	Procedural Clerk
Ms. Candice Skerrette	Procedural Clerk Assistant
Ms. Chantal LaRoche	Legal Officer
Ms. Susan-Leigh Christopher	Legal Officer

COMMENCEMENT

- 1.1 With a provisional quorum of six (6) Members present, the Clerk of the House called the meeting to order at 11:36 a.m. Members were reminded that by resolutions of each

House, select committees were established to sit together as a Joint Select Committee with a specific mandate to consider and report on the legislative proposal entitled *The Draft Houses of Parliament Service Authority Bill, 2014* and report no later than May 31, 2014.

ELECTION OF A CHAIRMAN

- 2.1 The Clerk of the House informed Members that in accordance with the Standing Orders, the first duty of the Committee was to elect a Chairman from among its Members.
- 2.2 The Clerk of the House invited nominations for a Chairman. Dr. Roodal Moonilal proposed Mr. Wade Mark as Chairman and Mrs. Camille Robinson-Regis seconded the nomination. There being no other nominees, Mr. Wade Mark was declared the duly elected Chairman and invited to take the Chair.
- 2.3 Expressions of congratulations were extended to the Chairman, who in turn thanked members for electing him.

ANNOUNCEMENTS

- 3.1 The Chairman indicated that Mr. Imbert, Ms. McDonald and Mr. Ramlogan, SC asked to be excused from the meeting.

QUORUM

- 4.1 In accordance with Standing Order 79(2) of the House of Representatives and Standing Order 71(2) of the Senate, the Chairman invited suggestions for a quorum.
- 4.2 Members exchanged views and thereafter the Committee agreed that the quorum would be set at *four (4) Members inclusive of the Chairman with at least one (1) Member from each House.*

SECRETARIAL SUPPORT

- 5.1 The Chairman indicated that Mr. Ralph Deonarine, Procedural Clerk had been assigned as Secretary to the Committee.

MANDATE

- 6.1 The Chairman reminded Members of the Committee's mandate to, "consider and report on the legislative proposal entitled, "the Draft Houses of Parliament Service Authority Bill, 2014" and report no later than May 31, 2014."

TERMS OF REFERENCE

- 7.1 The Chairman invited Members to consider items that would comprise the Committee's Terms of Reference. Members discussed several points and agreed to the following:
- V. To consider the comprehensive draft legislative proposal and the underlying principles
 - VI. To consult with stakeholders;
 - VII. In consultation with United Nations Development Programme (UNDP), engage experts and parliamentary, human resource & industrial relations practitioners in order to generate the best practices and appropriate outcomes/benchmarks for our jurisdiction; and
 - VIII. To propose for implementation, legislation to give effect to the purpose of the proposal, together with the requisite regulations.
- 7.2 Mr. Prescott, SC sought clarification on the term "*engage*" as used in part II of the terms of reference. The Chairman advised that further to the Committee being empowered to engage experts consistent with normal practice, the term also applied to an existing agreement between the UNDP and the Office of the Parliament, part of which includes assistance with the engagement of a consultant to assist with the draft of appropriate legislation for the autonomy of the Parliament.

DISCUSSION ON THE WAY FORWARD

- 8.1 The Committee directed the Secretary to send correspondence to the Chief Parliamentary Counsel requesting the services of senior parliamentary counsel to assist the Committee.
- 8.2 The Committee deliberated on identifying persons who would be able to provide technical insight and expert assistance to the Committee. The following list was agreed to:
- The Clerk of the United Kingdom House of Commons or the Clerk of the Canadian House of Commons;
 - Former Members of Parliament with a legal background; and
 - Former Speakers of the House, former Presidents of the Senate and former Clerks of the House.
- 8.3 The Secretary was directed to write to all Members of Parliament requesting their submissions and concerns on the legislative proposal with a timeframe for responses of ten (10) working days. Members were advised that in seeking the assistance of the Clerks of the United Kingdom and Canadian House of Commons, communication must be forwarded through their respective Presiding Officers.

- 8.4 The Committee also instructed the Secretary to prepare an executive summary on the legislative proposal to better assist Members as well as selected stakeholders. The Secretary was also asked to make available to the Committee's Members via the *Rotunda*, the learnings from the various jurisdictions which were referenced in drafting the legislative proposal.
- 8.5 The Committee agreed that written submissions would be requested from the following stakeholders, with a similar deadline as detailed in paragraph 8.3 above:
- Public Services Association (PSA);
 - National Union of Government and Federated Workers (NUGFW);
 - Chairman of the Public Service Commission;
 - The Minister, Permanent Secretary and the Chief Personnel Officer of the Ministry of Public Administration;
 - The Minister, Permanent Secretary and Director of Budgets of the Ministry of Finance and the Economy;
 - A team of Parliament Staff Representatives; and
 - The Body of Clerks (of Parliament).
- 8.6 The Committee agreed to the following schedule of meetings:
- Wednesday April 30, 2014 at 3:00 p.m.
 - Wednesday May 14, 2014 at 2:00 p.m.
 - Tuesday May 27, 2014 at 9:00 a.m.
- 8.7 Members agreed that at its next meeting, the Committee would examine the legislative proposal page by page, as well as consider the executive summary.

OTHER BUSINESS

- 9.1 The Committee considered whether it should meet *in camera* or *in public*. Mr. Seemungal suggested that the Committee consider meeting with stakeholders in public. The matter was deferred for further consideration.

ADJOURNMENT

- 10.1 There being no further business for consideration, the Chairman thanked Members for their attendance and adjourned the meeting to **Wednesday April 30, 2014 at 3:00 p.m.**
- 10.2 The adjournment was taken at 12:34 p.m.

I certify that these Minutes are true and correct.

CHAIRMAN

SECRETARY

April 17, 2014

**MINUTES OF THE SECOND MEETING OF THE JOINT SELECT COMMITTEE OF
PARLIAMENT APPOINTED TO CONSIDER AND REPORT ON THE LEGISLATIVE
PROPOSAL ENTITLED, “THE DRAFT HOUSES OF PARLIAMENT SERVICE AUTHORITY
BILL, 2014” HELD IN THE ARNOLD THOMASOS ROOM (EAST), LEVEL 6, OFFICE OF THE
PARLIAMENT, TOWER D, PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A
WRIGHTSON ROAD, PORT OF SPAIN ON
WEDNESDAY MAY 14, 2014 AT 2:12 P.M.**

PRESENT

Committee Members

Mr. Timothy Hamel-Smith	Member
Mr. Jairam Seemungal, MP	Member
Ms. Marlene McDonald	Member
Mr. Emmanuel George	Member
Mrs. Camille Robinson-Regis	Member
Mr. Elton Prescott, SC	Member

ABSENT

Mr. Wade Mark, MP	Chairman (excused)
Mr. Colm Imbert	Member (excused)
Mr. Anand Ramlogan, SC	Member (excused)
Dr. Roodal Moonilal, MP	Member (excused)

Secretariat

Mrs. Jacqueline Sampson-Meiguel	Clerk of the House
Mrs. Nataki Atiba-Dilchan	Clerk of the Senate
Ms. Candice Skerrette	Procedural Clerk Assistant
Ms. Chantal La Roche	Legal Officer
Ms. Susan-Leigh Christopher	Legal Officer
Mr. Stephen Boodhram	UNDP Project Manager
Mrs. Anne-Marie Brassington	Assistant Chief Parliamentary Counsel
Ms. Dharlene Smith	Legal Officer I, Office of the Chief Parliamentary Counsel.

ELECTION OF A CHAIRMAN

1.2 The Clerk of the House called the meeting to order at 2:12 p.m. and announced that the Chairman was absent. In accordance with House of Representatives Standing Order 80(2) and Senate Standing Order 73(2) the Clerk of the House invited nominations for Chairman, for the day.

1.3 Mr. Timothy Hamel-Smith was nominated by Mr. Elton Prescott SC. This nomination

was seconded by Mr. Jairam Seemungal. Since there were no other nominations, Mr. Timothy Hamel-Smith was duly elected Chairman for the day.

CONFIRMATION OF MINUTES

- 2.1 The Committee considered the Minutes of the 1st Meeting held on April 11, 2014.
- 2.2 The motion for the confirmation of the Minutes was moved by Mr. Prescott and seconded by Mr. Seemungal.
- 2.3 The Minutes were accordingly confirmed.

MATTERS ARISING FROM MINUTES

- 3.1 **Para 7.1 (III)** - the Committee was advised by the UNDP Project Manager that nominations had been received and four (4) candidates are expected to be interviewed in the upcoming week.
- 3.2 **Para 8.1** - the Chairman advised that correspondence had been sent to the Chief Parliamentary Counsel and that Mrs. Anne Marie Brassington, Assistant Chief Parliamentary Counsel, had been assigned to the Committee.
- 3.3 **Para 8.2** - Members were informed the Clerk of the House of Commons, Canada had indicated a willingness to assist, when requested and that the requisite arrangements will be made through the Office of the Speaker.
- 3.4 **Para 8.3** - the Committee was informed that written submissions from Members of Parliament would shortly be sought via the Committee Secretary. Members noted that a submission was received from Mrs. Helen Drayton in response to an oral announcement made in the Senate by the President.
- 3.5 **Para 8.4** - Members were informed that the Executive Summary had been circulated to Members and that precedents from various jurisdictions were uploaded to *Rotunda*.
- 3.6 **Para 8.5** - the Chairman advised that correspondence had been sent to the stakeholders listed in the minutes as well as the Ombudsman, the Head of the Public Service and the Auditor General.
- 3.7 **Para - 8.6**, Ms. McDonald informed the meeting that it will be difficult for her to attend meetings on a Wednesday as that day is her constituency day.

CONSIDERATION OF LEGISLATIVE PROPOSAL

- 4.1 The Committee commenced consideration of the Legislative Proposal page by page.

4.2 The following amendments were made to Parts 1 to 3 of the Legislative Proposal:

Clause	Decision Taken
Clause 3 “Clerk” definition	New definition to be inserted
Clause 3 “Clerk of the Senate” definition	New definition to be inserted.
Clause 3 “Employee” definition	New definition to be inserted.
Clause 3 “Former Department” definition	Re-worded as “ means the Parliament Department prior to the commencement of this Act; ”
Clause 3 “Head-Legal Services” definition	CPC to re-word definition to include capacity as Corporate Secretary.
Clause 3 “House” definition	New definition to be inserted.
Clause 3 “member” definition	Re-worded as “ means Member of the Board; ”
Clause 3 “Parliamentarian” definition	New definition to be inserted.
Clause 3 “precincts of Parliament”	Insert “ of Parliament” after the word “Members” and delete the word “press” and insert the word “media”
Clause 3 “Parliament” definition	Deleted
Clause 3 “Pensions Act” definition	Deleted
Clause 3 “Statutes Act” definition	Deleted
Clause 4	Re-numbered as Clause 5
Clause 5	Re-numbered as Clause 4
Re-numbered Clause 4(b)	Delete the words “establish an independent non-partisan Parliamentary Service Authority” and insert “ establish the Authority ”. Delete “a Board” and insert “ the Board ”.
Re-numbered Clause 4(c)	Delete the words “and fair employment”

Re-numbered Clause 5 (1)	Re-worded as, (a)all land and other property of every kind, including things in action, used, managed and controlled by the Former department particulars of which include those properties included in the Schedule and vested immediately before that date in the State; and (b)all the assets, rights, licences , privileges and advantages and all the liabilities and obligations that the Former Department was entitled or subject to immediately before that date, shall be transferred, vested and conferred or imposed upon the Authority.
Re-numbered Clause 5(3)(b)	The line “ shall, with effect from the appointed day, be deemed to refer to the Authority. ” to be on a separate line.
Re-numbered Clause 5(4),(5)	CPC to assess for possible inclusion in Clause 4(2).
Re-numbered Clause 5(6)	Delete “for avoidance of doubt,”
Clause 6	To form part of the Preamble.
Clause 6(3)	Re-worded as “The Authority is a non-partisan, apolitical body of the Authority.” To form part of the Preamble.
Clause 7	Re-numbered as Clause 6
Re-numbered Clause 6 (2)(c)	Delete “lending money”
Clause 6(2)(e)	Re-numbered Clause 6(2)(f)
New Clause 6(2)(e)	Insert “receiving grants;”
Clause 8	Re-numbered as Clause 7
Re-numbered Clause 7(1)(iii)	Insert “ fit out ” after the words “rebuild,”
Re-numbered Clause 8(1)(v),(vi)	Delete
Clause 9	Re-numbered as Clause 8
Re-numbered Clause 8(1)(h)	Delete “ of parliamentary buildings” and insert “ the maintenance and insurance of its properties and assets; ”
New Re-numbered Clause 8(1)(i)	Insert “ the provision of security services with the constituency offices of Members of Parliament. ”
Clause 10	Re-numbered as Clause 9
Clause 11	Re-numbered as Clause 10
Re-numbered Clause 10 (1)	Delete the words “ Corporate Secretary” and insert “Head Legal Services”
Re-numbered Clause 10(2)	Insert after the word “Chairman” the words “ ,the Head Legal Services ”

4.3 The Secretary was directed to circulate a track-changed version of the corrections made to the Legislative Proposal.

ADJOURNMENT

5.1 There being no further business for consideration, the Chairman thanked Members for their attendance and adjourned the meeting to **Tuesday May 27, 2014 at 9:00 a.m.** to continue consideration of the Legislative Proposal page by page.

5.2 The adjournment was taken at 5:12 p.m.

I certify that these Minutes are true and correct.

CHAIRMAN

SECRETARY

May 26, 2014

**MINUTES OF THE THIRD MEETING OF THE JOINT SELECT COMMITTEE OF PARLIAMENT
APPOINTED TO CONSIDER AND REPORT ON THE LEGISLATIVE PROPOSAL ENTITLED,
“THE DRAFT HOUSES OF PARLIAMENT SERVICE AUTHORITY BILL, 2014” HELD IN THE
ARNOLD THOMASOS ROOM (WEST), LEVEL 6, OFFICE OF THE PARLIAMENT, TOWER D, PORT
OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN
ON
FRIDAY JULY 11, 2014 AT 10:23 A.M.**

PRESENT

Committee Members

Mr. Wade Mark, MP	Chairman
Mr. Timothy Hamel-Smith	Member
Mr. Emmanuel George	Member
Mr. Elton Prescott, SC	Member

ABSENT

Mr. Colm Imbert	Member (excused)
Mr. Anand Ramlogan, SC	Member (excused)
Dr. Roodal Moonilal, MP	Member (excused)
Ms. Marlene McDonald	Member (excused)
Mrs. Camille Robinson-Regis	Member (excused)
Mr. Jairam Seemungal, MP	Member

Secretariat

Mrs. Jacqueline Sampson-Meiguel	Clerk of the House
Mr. Ralph Deonarine	Secretary
Ms. Chantal La Roche	Legal Officer
Ms. Susan-Leigh Christopher	Legal Officer
Mr. Stephen Boodhram	UNDP Project Manager
Mrs. Anne-Marie Brassington	Assistant Chief Parliamentary Counsel
Ms. Dharlene Smith	Legal Officer I, Office of the Chief Parliamentary Counsel.

INTRODUCTION

- 1.4 The Chairman called the meeting to order at 10:23 a.m. and thanked those in attendance, noting that the Committee was properly constituted in accordance with the established quorum.

CONFIRMATION OF MINUTES

- 2.1 The Committee considered the Minutes of the 2nd Meeting held on May14, 2014.

2.2 There being no corrections or omissions, the motion for the confirmation of the Minutes was moved by Mr. Prescott, SC and seconded by Mr. George.

2.3 The Minutes were accordingly confirmed.

MATTERS ARISING FROM MINUTES

3.1 **Para 3.3** – the Chairman advised that correspondence had been sent to the Speaker of the House of Commons, Parliament of Canada, seeking his assistance by the release of his Clerk of the House to assist and guide the Committee in its deliberations.

3.2 **Para 3.4** - the Chairman informed members that written submissions were invited from the identified list of stakeholders, with an initial deadline of May 30, 2014 which was extended to June 30, 2014. Submissions were received during this period from the Ombudsman, the Auditor General, the Head of the Public Service and the Chairman of the Public Service Commission.

CONSIDERATION OF LEGISLATIVE PROPOSAL (CONT'D)

4.1 The Committee resumed its page by page consideration of the Legislative Proposal, reflecting on the submissions received from stakeholders on consideration of the respective Clauses.

4.2 The following amendments were made to Parts I to IV of the Legislative Proposal:

Clause	Decision Taken
Renumbered Clause 4 (b) Objects of the Act	Delete the words “which shall be managed by the Board”.
Clause 12	Renumbered as Clause 11.
Clause 13	Renumbered as Clause 12
Clause 14	Renumbered as Clause 13
Clause 15	Renumbered as Clause 14
Clause 16	Renumbered as Clause 15
Renumbered Clause 15(1)	Delete the words “(e)-(h)” and insert the words “(e), (f) & (h)”

Renumbered Clause 15 (1)(c)	Delete the words “before Parliament is dissolved or expires”.
Renumbered Clause 15 (3)	Delete the word “A member of the Board who holds office under section 12(1)(e)-(h)” and substitute with the words “Notwithstanding section 15(1)(b), a member of the Board who holds office under section 12(1)(e), (f) & (h)”
Clause 17	Renumbered as Clause 16
Renumbered Clause 16 (4)	Delete the words “13(2)(g)” and insert the words “12(1)(g)”
Renumbered Clause 16 (5)	Defer for consideration to the Clerk of the House of Commons, Parliament of Canada
Renumbered Clause 16 (6)	Referred for clarification from the Clerk of the House of Commons, Parliament of Canada
Clause 18	Renumbered as Clause 17
Clause 19	Renumbered as Clause 18
Renumbered Clause 18 (1)(e)	Delete the words “policy for general training of members of staff” and insert the words “all policies of the Authority”
Renumbered Clause 18 (1)(f)	Insert after the word “Annual” the word “Operational”
Renumbered Clause 18 (1)(h)	Delete the words “expedient management” and insert the words “good governance”

OTHER BUSINESS

5.1 The Committee held discussions on a point raised by the Chairman as to whether both Houses should be given an opportunity to debate the budget estimates.

5.2 The Chairman reminded Members of the impending conclusion of the parliamentary session given the Committee’s reporting mandate of July 31, 2014 and advanced that a Report be prepared by the Secretary for laying so that in the following Fifth (5th) Session, should a new Committee be appointed, the work of the current Committee can be passed over.

5.3 The Committee agreed to the proposal at paragraph 5.2 above and further resolved that the submissions which were received from stakeholders should be appended to and form part of the Committee’s Report.

ADJOURNMENT

6.1 There being no further business for consideration, the Chairman thanked Members for their attendance and adjourned the meeting.

6.2 The adjournment was taken at 12:29 p.m.

I certify that these Minutes are true and correct.

CHAIRMAN

SECRETARY

July 22, 2014