



PARLIAMENT

REPUBLIC OF TRINIDAD AND TOBAGO

FIFTH SESSION OF THE TENTH PARLIAMENT (2014/2015)

REPORT
OF
THE JOINT SELECT COMMITTEE
APPOINTED TO CONSIDER THE LEGISLATIVE PROPOSAL ENTITLED "THE
DRAFT HOUSES OF PARLIAMENT SERVICE AUTHORITY BILL, 2014"

Ordered to be printed

TOGETHER WITH THE MINUTES OF PROCEEDINGS

PARL: 14/3/38

HOR PAPER NO: / 2015

SENATE PAPER NO: /2015

BACKGROUND

1. During the 2013/2014 Session of the Tenth Parliament, 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.
2. By report dated July 25, 2014, the Committee recommended that a new Committee be established to continue the work undertaken and adopt submissions received.
3. As a consequence your Committee was established on November 07, 2014 with the following terms of reference:

"To consider the legislative proposal entitled, "The Draft Legislative Proposal for the Houses of Parliament Service Authority Bill, 2014."

MEMBERSHIP OF THE COMMITTEE

4. The Committee is comprised of the following Members:

Mr. Wade Mark	-	Chairman
Mrs. Nela Khan	-	Member
Dr. Rupert Griffith	-	Member
Ms. Marlene Mc Donald	-	Member
Mr. Colm Imbert	-	Member
Mr. Elton Prescott, SC	-	Member
Mrs. Camille Robinson-Regis	-	Member
Mrs. Raziah Ahmed	-	Member
Mr. Garvin Nicholas	-	Member
Mr. Brent Sancho	-	Member

5. On March 3, 2015, Mr. Garvin Nicholas, Mrs. Raziah Ahmed and Mr. Brent Sancho replaced Mr. Anand Ramlogan, SC, Mr. Emmanuel George and Mr. Timothy Hamel-Smith as Members of the Committee.

CHAIRMANSHIP

6. At its first meeting on Tuesday December 09, 2014, your Committee elected Mr. Wade Mark to be its Chair, in accordance with House of Representatives Standing Order 97(3) and Senate Standing Order 71(3).

SECRETARIAT AND TECHNICAL SUPPORT

7. During the session Ms. Chantal La Roche, Legal Officer Parliament, served as Secretary of the Committee and Ms. Candice Skerrette, Procedural Clerk Assistant served as Assistant Secretary. Ms. Susan-Leigh Christopher, Legal Officer Parliament, also provided assistance to the Committee.
8. In addition to assistance provided by the Secretariat, the Committee also received technical advice and support from Mr. Stephen Boodhram, Project Manager UNDP and Dr. John Patterson, Parliamentary Expert on Governance.

MEETINGS

9. Since its appointment, your Committee held five (5) meetings on the following dates:
 - i. Tuesday December 09, 2014;
 - ii. Friday December 12, 2014;
 - iii. Friday January 23, 2015;
 - iv. Friday January 30, 2015; and
 - v. Wednesday May 29, 2015.
10. The attendance record for the above meetings of the Committee is attached at Appendix I, and Minutes of the meetings are attached at Appendix II.

WORK TO DATE

11. At its First Meeting held on December 9, 2014, your Committee met with Dr. John Patterson, Parliamentary Expert on Governance. Dr. Patterson was engaged by the UNDP in consultation with the Office of the Parliament to assist in advancing the process of the functional (administrative and financial) autonomy of the Parliament of the Republic of Trinidad and Tobago.
12. At its Second Meeting held on December 12, 2014, following extensive discussions with Dr. Patterson, your Committee approved a pre-policy paper entitled "Towards an Independent Parliament – Ensuring Parliament's Functional Autonomy". The Committee agreed that this paper would be circulated to a wide range of stakeholders including the media, Members of both the House of Representatives and the Senate, political parties, staff of the Office of the Parliament, National Trade Union groups and civil society groups.

13. A press conference was held on December 16, 2014 to launch the pre-policy paper and invite input from a wide cross-section of the population. The Committee agreed to a deadline for submissions of January 20, 2015. However, at the Third Meeting held on January 23, 2015, the Committee agreed to extend the deadline to February 6, 2015 to allow for further feedback.
14. In response to the request for written submissions the Committee received submissions from the following:
- a) University of the Southern Caribbean
 - b) Public Service Commission;
 - c) Mr. Ramesh Maharaj, SC;
 - d) Office of the Chief Personnel Officer;
 - e) Trinidad and Tobago Chamber of Commerce and Industry;
 - f) Employers' Consultative Association of Trinidad and Tobago;
 - g) Ministry of Local Government;
 - h) Constitutional Affairs and Parliamentary Studies Unit, University of the West Indies;
 - i) Ministry of Public Utilities;
 - j) Office of the Auditor General;
 - k) Office of the Prime Minister;
 - l) Members of staff of the Office of the Parliament; and
 - m) Ms. R. Glasgow

These submissions are annexed as Appendix V to this report.

15. Your Committee agreed to a schedule of public meetings with stakeholders on Tuesday January 27 2015, Friday January 30 2015, Wednesday February 04 2015 and Friday February 06, 2015. The purpose of these meetings was to engage stakeholders and to further discuss their submissions. At its Fourth Meeting held on Friday January 30, 2015, the Committee held a public meeting with the following officials from the Personnel Department:
- a) Ms. Stephanie Lewis, Chief Personnel Officer; and
 - b) Mr. Beresford Riley, Deputy Chief Personnel Officer.
16. However, due to scheduling conflicts the schedule was amended and committee meetings were also arranged for Wednesday March 18, 2015, Wednesday April 01, 2015, Thursday May 7, 2015 and Wednesday June 3, 2015. However, despite efforts to execute these public meetings as agreed by the Committee, these meetings were cancelled due to a lack of quorum.

17. At its Fifth Meeting held on Friday May 29, 2015 the Committee discussed a Policy Document and a Preliminary Report on Appropriate Recommendations on Parliamentary Autonomy in Trinidad and Tobago, both prepared by Dr. Patterson. These documents are annexed as Appendices III and IV to this report.

OBSERVATIONS

18. Your Committee examined all submissions received from stakeholders as well as the documents prepared by Dr. Patterson and the following general observations are submitted in relation to essential aspects of parliamentary autonomy (administrative and financial):

Autonomy in financial and administrative arrangements of Parliament

19. Changes to the arrangements where executive branches oversee essential resource administration requirements arrangements are required for parliaments to fulfill its constitutional purpose. Practical considerations include the desirability of change, the detailed form of proposed changes and the assumption of responsible stewardship on the part of parliament for matters that were previously the responsibility of the executive government.
20. Success of a change of arrangement will depend on the following:
- a) stakeholder co-operation;
 - b) risk identification;
 - c) agreement on a responsible 'delivery mechanism'; and
 - d) a realistic appreciation of the resources required by parliament.

Involvement of Members of Parliament in Parliament's Administration

21. Members of Parliament, as the major stakeholders in the institution of parliament, should be afforded an opportunity to determine matters pertaining to the running of the parliament.
22. Whilst concerns were expressed at the prospect of politicians being involved in administrative matters such as the appointment of staff, it is counterintuitive to exclude the persons most central to the parliament from its administration.
23. Therefore, care must be taken to ensure that the arrangements put in place to bring about autonomy achieve a number of objectives designed to promote high ethical and professional standards in the discharge of the administration, including:
- a) inculcating transparency, inclusivity and fairness within the unique political structure of the institution;
 - b) inspiring all those having an administrative role to demonstrate leadership in ethical and accountability matters, and making the appropriate skills and information to those ends accessible; and

- c) the encouragement of a culture of corporate self-restraint, cross-institutional co-operation, and accountability, especially in the use of public monies, in Parliament.

Parliamentary Autonomy

24. Parliamentary autonomy should be viewed not solely in terms of separation, but rather as a recalibration of the existing relationship between the executive and the legislature based on an underlying evolution in parliament and state maturity. Basic requirements for parliamentary autonomy include the following:

- a) Parliament should be serviced by a professional staff independent of the public service
- b) Adequate resources should be provided to government and non-government backbenchers in order to improve parliamentary impact and should include provision of:
 - i. Training for new members;
 - ii. Secretarial, office, library and research facilities; and
 - iii. Drafting assistance including private members' bills
- c) An all-party committee of Parliament should review and administer Parliament's budget, which should not be subject to amendment by the executive.

Legislative Expectations

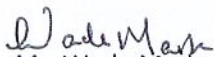
25. Legislation should produce or help to enable the following substantive features of an autonomous Parliament:

- a) a Parliament corporate body with the power to secure budgetary requirements without interference from the government;
- b) a Parliament corporate body that is responsible for providing necessary financial and human resources to Parliament;
- c) an officer responsible for accounting for the financial resources provided by the corporate body for the parliamentary service, and an independent auditing arrangement;
- d) an independent Parliament staff, set apart from any other service, owing loyalty to Parliament, and appointed strictly and transparently on merit (the rights of staff transferring from the public to parliamentary service need to be protected);
- e) clarity of functions and powers within the parliamentary administration and especially between the political and official roles; and
- f) a culture of accountability, transparency and high ethics in all aspects of parliamentary administration.

RECOMMENDATIONS

26. Your Committee recommends that the Parliament take note of the progress made by the Committee thus far, including the adoption of the Policy on Parliamentary Autonomy. It is the hope of the Committee that the matter of the Financial and Administrative Autonomy of the Parliament will be considered in the Eleventh Parliament and that the extensive work done to date, and the Preliminary Report on Appropriate Recommendations on Parliamentary Autonomy in Trinidad and Tobago would provide the foundation for the continuation of efforts to restructure the management of parliament's administration.

Respectfully Submitted,

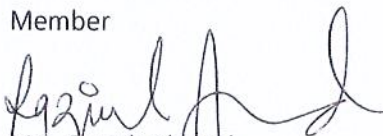

Mr. Wade Mark
Chairman

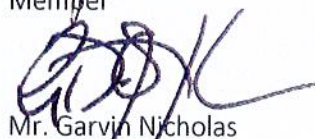
Mrs. Nela Khan
Member

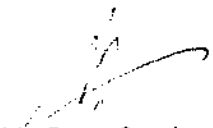

Dr. Rupert Griffith
Member

Ms. Marlene McDonald
Member

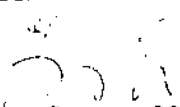
Mr. Colm Imbert
Member


Mrs. Raziah Ahmed
Member

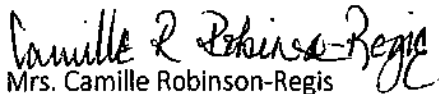

Mr. Garvin Nicholas
Member



Mr. Brent Sancho
Member



Mr. Elton Prescott SC
Member



Mrs. Camille Robinson-Regis
Member

June 9, 2015

APPENDICES

APPENDIX I

ATTENDANCE RECORD

Member	1 st Meeting (09-12-14)	2 nd Meeting (12-12-14)	3 rd Meeting (23-01-15)	4 th Meeting (30-01-15)	5 th Meeting (29-05-15)
Mr. Wade Mark	Present	Present	Present	Present	Present
Mrs. Nela Khan	Excused Absent	Present	Present	Present	Present
Dr. Rupert Griffith	Excused Absent	Absent	Absent	Excused Absent	Absent
Ms. Marlene Mc. Donald	Present	Excused Absent	Excused Absent	Present	Excused Absent
Mr. Colm Imbert	Excused Absent	Excused Absent	Excused Absent	Excused Absent	Excused Absent
Mr. Elton Prescott, SC	Present	Present	Present	Present	Present
Mrs. Camille Robinson-Regis	Present	Excused Absent	Excused Absent	Excused Absent	Absent
Anand Ramlogan, SC (26-08-14 to 02- 02-15)	Excused Absent	Present	Excused Absent	Excused Absent	-
Mr. Emmanuel George (26-08-14 to 02- 02-15)	Present	Excused Absent	Present	Present	-
Mr. Timothy Hamel-Smith (26-08-14 to 02- 02-15)	Present	Present	Excused Absent	Excused Absent	
Mr. Garvin Nicholas (03-03-15)	-	-	-	-	Absent
Mrs. Raziah Ahmed (03-03-15)	-	-	-	-	Present
Mr. Brent Sancho (03-03-15)	-	-	-	-	Absent

APPENDIX II



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

**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
TUESDAY DECEMBER 09, 2014 AT 10:57 A.M.**

PRESENT

Committee Members

Mr. Wade Mark, MP	Chairman
Mr. Timothy Hamel-Smith	Member
Mrs. Nela Khan	Member
Mr. Emmanuel George	Member
Mrs. Camille Robinson-Regis	Member
Mr. Elton Prescott, SC	Member
Ms. Marlene McDonald	Member

ABSENT

Dr. Rupert Griffith, MP	Member (excused)
Mr. Colm Imbert	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
Ms. Chantal La Roche	Legal Officer
Ms. Candice Skerrette	Procedural Clerk Assistant
Ms. Susan-Leigh Christopher	Legal Officer

UNDP Representatives

Mr. Stephen Boodhram	UNDP Project Manager
Mr. Franklin De Vrieze	UNDP Consultant
Dr. John Patterson	UNDP Consultant

Chief Parliamentary Counsel Representatives

Ms. Anne-Marie Brassington

Ms. Dharlene Smith

Assistant Chief Parliamentary
Counsel

Legal Officer I

COMMENCEMENT

- 1.1 With a provisional quorum of six (6) Members present, the Secretary called the meeting to order at 10:57 a.m.

ELECTION OF A CHAIRMAN

- 2.1 The Secretary advised that House of Representatives Standing Order 97(3) and Senate Standing Order 71(3) states, "Subject to these Standing Orders, a Joint Select Committee shall elect its own Chairman" and invited nominations for the post of Chairman.
- 2.2 Mr. Emmanuel George 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. He thanked Members for electing him to serve as Chairman.

EXCUSES FOR ABSENCE

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

QUORUM

- 4.1 In accordance with Standing Order 97(2) and 112(5) of the House of Representatives, the Chairman invited suggestions for a quorum.
- 4.2 After deliberation 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.*

DISCUSSIONS WITH UNDP REPRESENTATIVES

- 5.1 The Chairman introduced Dr. John Patterson, a Parliamentary Expert on Governance. He advised the Committee that Dr. Patterson was retained by the UNDP, in consultation with the Office of the Parliament to assist with the accomplishment of one of the outputs of the UNDP Project designed to advance the process of the functional (administrative and financial) autonomy of the Parliament of the Republic of Trinidad and Tobago through the finalization of the draft Houses of Parliament Bill.
- 5.2 The Chairman also introduced Mr. Franklin De Vrieze, a Parliamentary Advisor on Committees. The Chairman informed Members that Mr. De Vrieze was retained by the UNDP, in consultation with the Office of the Parliament to conduct an assessment of

parliamentary committees and the legislative process in Trinidad and Tobago. He also advised Members that Mr. De Vrieze was invited to observe the proceedings of the Committee.

- 5.3 The Chairman also acknowledged the presence of Mr. Stephen Boodram, UNDP Project Manager, Strengthening of Parliament project.
- 5.4 After an introduction of all persons in attendance, the Chairman invited Dr. Patterson to make a presentation to the Committee on his preliminary report on Parliamentary Autonomy in Parliament Trinidad and Tobago to date.
- 5.5 Dr. Patterson addressed the Committee. The following were some of the key points made in his address:

- i. **Process**

- a. Dr. Patterson advised that it was important to first identify the challenges with the status quo and the fundamental benefits for initiating the autonomy process. The process thereafter should ideally indicate the appropriate action needed to meet the challenges. He expressed the view that this would be difficult to determine in the absence of stakeholder evidence.
- b. He therefore stressed the need for engagement with the relevant stakeholders and the preparation of a policy that would seek to address all the issues identified to address the challenges with the status quo and stakeholder concerns. In this regard, he referenced the Scotland experience toward a new Parliament which required evidence based on rigorous stakeholder consultation as a direct correlation of the outcome.

- ii. **Outcomes of the Process**

Dr. Patterson explained that there is no singular solution to a government-parliament relationship. He expressed that there are different approaches and forms towards the implementation of parliamentary autonomy and that legislative proposal is one of the approaches.

- iii. **Legislative Proposal**

- a. Dr. Patterson stressed that the status of the parliamentary staff is important to the process of parliamentary autonomy. Staff morale would be proportional to the extent of consultations as well as the outcome and speed of delivery of the process.
- b. He also highlighted that changes to the nature of expenditure for Parliament's needs should be justified with reference to improved governance and efficiency and effectiveness of the stewardship of taxpayer's money.
- c. The improved internal governance of the Parliament in relation to its stakeholders should also justify the autonomy process. Dr. Patterson

5.6 The following views and issues emanated from the Committee:

- ## DISCUSSION ON THE WAY FORWARD

- ## ADJOURNMENT

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CHAIRMAN

SECRETARY

December 11, 2014



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

**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 (WEST), LEVEL 6,
OFFICE OF THE PARLIAMENT, TOWER D, PORT OF SPAIN INTERNATIONAL WATERFRONT
CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN ON
FRIDAY DECEMBER 12, 2014 AT 10:20 A.M.**

PRESENT

Committee Members

Mr. Wade Mark, MP	Chairman
Mr. Timothy Hamel-Smith	Member
Mrs. Nela Khan	Member
Mr. Elton Prescott, SC	Member
Mr. Anand Ramlogan, SC	Member

ABSENT

Mr. Colm Imbert	Member (excused)
Ms. Marlene McDonald	Member (excused)
Mrs. Camille Robinson-Regis	Member (excused)
Mr. Emmanuel George	Member (excused)
Dr. Rupert Griffith, MP	Member

Secretariat

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

UNDP Representatives

Mr. Stephen Boodhram	UNDP Project Manager
Mr. Franklin De Vrieze	UNDP Consultant
Dr. John Patterson	UNDP Consultant

INTRODUCTION

- 1.1 The Chairman called the meeting to order at 10:20 a.m.

- 1.2 The Chairman indicated that Mr. Imbert, Ms. McDonald, Mrs. Robinson-Regis and Mr. George requested to be excused from the meeting.

CONFIRMATION OF MINUTES

1st Meeting held on December 09th, 2014

- 2.1 The Committee considered the Minutes of the 1st Meeting held on December 09, 2014.
- 2.2 There were no proposed amendments to the Minutes.
- 2.3 The motion for the confirmation of the Minutes was moved by Mrs. Khan and was seconded by Mr. Prescott, SC.

MATTERS ARISING FROM THE MINUTES

- 3.1 As per item 6.1, Members were advised that a Minute as well as a Pre-policy Paper entitled "Towards an Independent Parliament-Ensuring Parliament's Functional Autonomy" prepared by Dr. John Patterson, Consultant were circulated via e-mail on December 11, 2014 and in hard copy during the meeting.

DISCUSSIONS ON THE PRE-POLICY PAPER

- 4.1 The Chairman reminded Members that at the 1st meeting of the Committee it was agreed that discussions would continue on the Pre-Policy Paper. He invited Dr. Patterson to make a brief presentation on the documents submitted to the Committee.
- 4.2 Dr. Patterson addressed the Committee and addressed the following key points:
- iv. **Pre-Policy Paper**
The pre-policy was designed to reflect the approach that informed the legislative proposal. The intention was that the audience regard autonomy as integral to the modernization of the Parliament.
 - v. **Minute**
The minute is an action document with timelines that requires the Committee's agreement. The pre-policy document should be circulated to the media, stakeholders who have made submissions to date, all Members of Parliament and Office of the Parliament staff. The final policy should be sensitive to a wide range of views.
- 4.3 The Committee acknowledged that the paper was well written in clear, simple English to be easier understood by the public and agreed to the insertion of a paragraph outlining that a strong and powerful legislature would result in a more robust and richer democracy in Trinidad and Tobago

4.4 The Committee approved the Pre-Policy Paper subject to the above-mentioned insertion.

OTHER BUSINESS

5.1 The Committee agreed to the following:

- i. Circulation of the Pre-Policy to all Members of Parliament;
- ii. A press conference to be held on Tuesday December 16, 2014 at 1:00 p.m.;
- iii. The Corporate Communications Department will arrange media interviews with the Joint Select Committee at the Office of the Parliament, with a representative from each bench present;
- iv. The Pre-Policy document will be forwarded to stakeholders from "public bodies" including the Public Service Commission, the Salaries Review Commission, the Law Association of Trinidad and Tobago, the University of the West Indies, the University of Trinidad and Tobago and the Tobago House of Assembly;
- v. The Pre-Policy document will also be forwarded to stakeholders from "civil society" such as Transparency International and Network of NGOs of Trinidad and Tobago for the Advancement of Women;
- vi. Public hearings with stakeholders who provided written submissions will take place on Tuesday January 27, Friday January 30, Wednesday February 04 and Friday February 06, 2015 at 9:30 a.m.;
- vii. The deadline for written submissions is January 20, 2015; and
- viii. Advertisements for written submissions will be placed in the media.

5.2 Dr. Patterson gave the Committee the assurance that he would draft a briefing document to be utilized at the press conference.

5.3 The Committee agreed that at its next meeting, written submissions received would be considered in preparation for public hearings with stakeholders.

ADJOURNMENT

6.1 There being no further business for consideration, the Chairman thanked Members and the UNDP representatives for their attendance and adjourned the meeting to **Friday January 23, 2015 at 11:00 a.m.**

6.2 The adjournment was taken at 11:06 a.m.

I certify that these Minutes are true and correct.

CHAIRMAN

SECRETARY

January 22, 2015

I certify that these Minutes are true and correct.

CHAIRMAN

SECRETARY

January 22, 2015



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port of Spain International Waterfront Centre
1A Wrightson Road, Port of Spain

**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 JANUARY 23, 2014 AT 11:25 A.M.**

PRESENT

Committee Members

Mr. Wade Mark, MP	Chairman
Mrs. Nela Khan	Member
Mr. Elton Prescott, SC	Member
Mr. Emmanuel George	Member

ABSENT

Mr. Timothy Hamel-Smith	Member (excused)
Mr. Colm Imbert	Member (excused)
Ms. Marlene McDonald	Member (excused)
Mrs. Camille Robinson-Regis	Member (excused)
Mr. Anand Ramlogan, SC	Member (excused)
Dr. Rupert Griffith, MP	Member

Secretariat

Ms. Chantal La Roche	Legal Officer
Ms. Candice Skerrette	Procedural Clerk Assistant
Ms. Susan-Leigh Christopher	Legal Officer

INTRODUCTION

- 1.2 The Chairman called the meeting to order at 11:25 a.m.
- 1.2 The Chairman indicated that Mr. Hamel-Smith, Mr. Imbert, Ms. McDonald, Mrs. Robinson-Regis and Mr. Ramlogan, SC requested to be excused from the meeting.

CONFIRMATION OF MINUTES

2nd Meeting held on January 23rd, 2014

- 2.1 The Committee considered the Minutes of the 2nd Meeting held on December 12, 2014.
- 2.2 There were no proposed amendments to the Minutes.
- 2.3 The motion for the confirmation of the Minutes was moved by Mr. Prescott, SC and was seconded by Mrs. Khan.

MATTERS ARISING FROM THE MINUTES

3.1 As per item 5.1, Members were advised that:

- (i) the pre-policy document was circulated to all Members of Parliament via letter dated December 17, 2014;
- (ii) a press conference was hosted on Tuesday December 16, 2014 at 1:15 p.m. and re-broadcast on the Parliament Channel;
- (iii) media interviews were arranged by the Corporate Communications Department. Three (3) media interviews were conducted on January 06, 2015 with only one (1) Member present. Subsequent attempts to host media interviews on January 12 and 16, 2015 were unsuccessful;
- (iv) and (v) the pre-policy was forwarded to a number of public bodies and civil society groups; and
- (viii) print media advertisements were placed with the Trinidad Express on December 21, 2014 and January 12, 2015, with Trinidad Guardian on December 28, 2014 and January 14, 2015, with the Newsday on January 04, 2015 and with Tobago News on January 09, 2015 with the stipulated deadline date on January 20, 2015.

CONSIDERATION OF WRITTEN SUBMISSIONS

- 4.1 The Chairman informed Members that invitations for written submissions were requested from ninety eight (98) stakeholders' and members of the public. The stakeholders' list was circulated during the meeting. Responses were received from thirteen (13) stakeholders and circulated via email on Thursday January 22, 2015. The stakeholders were:

- Public Service Commission;
- Mr. Ramesh Maharaj, SC;
- Office of the Chief Personnel Officer;
- Trinidad and Tobago Chamber of Commerce and Industry;

- Employers' Consultative Association of Trinidad and Tobago;
- Ministry of Local Government;
- Ms. Rossana Glasgow;
- Constitutional Affairs and Parliamentary Studies Unit, UWI;
- University of the West Indies;
- Ministry of Public Utilities;
- Office of the Auditor General;
- Office of the Prime Minister; and
- Staff of the Office of the Parliament.

- 4.2 The Committee agreed that since the written submissions rate was slow and many were submitted after the deadline, that the deadline would be extended by two weeks until February 06, 2015. It was also agreed that the Committee would seek comments from Mr. Martin Daly and Mr. Michael de la Bastide SC.
- 4.3 The Secretariat was directed to revisit the stakeholder list as there were several posthumous names.
- 4.4 The Chairman reminded Members that at its last meeting, the Committee agreed on a schedule of public hearing dates with stakeholders on Tuesday January 27, Friday January 30, Wednesday February 04 and Friday February 06, 2015 at 9:30 a.m. The Committee agreed to the following:
- i. The establishment of an internal technical team to study the written submissions; and
 - ii. The categorizing of written submissions and stakeholders who have outlined similar issues.

OTHER BUSINESS

- 5.1 The Committee agreed that its next meeting would be held on Friday January 30, 2015 at 9:30 a.m. (in camera) and 10:00 a.m. (public) with officials of the Office of the Chief Personnel Officer, Ministry of Local Government and the Public Service Commission.
- 5.2 The Secretariat was directed to provide the Committee with a paper for use during the public hearing.
- 5.3 The Chairman informed members that due to recent postponements of past press conferences and in order to keep the public informed on the new developments of the Committee, the media were invited to a press conference for midday today.

ADJOURNMENT

- 6.1 There being no further business for consideration, the Chairman adjourned the meeting to Friday January 30, 2015 at 9:30 a.m.
- 6.2 The adjournment was taken at 12:05 p.m.

I certify that these Minutes are true and correct.

CHAIRMAN

SECRETARY

January 27, 2015



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port of Spain International Waterfront Centre
1A Wrightson Road, Port of Spain

**MINUTES OF THE FOURTH 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, AND
THE J. HAMILTON MAURICE ROOM, OFFICE OF THE PARLIAMENT, TOWER D, PORT OF
SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN
ON
FRIDAY JANUARY 30, 2015 AT 9:49 A.M.**

PRESENT

Committee Members

Mr. Wade Mark, MP
Mrs. Nela Khan, MP
Mr. Elton Prescott, SC
Mr. Emmanuel George
Ms. Marlene McDonald

Chairman
Member
Member
Member
Member

ABSENT

Mr. Timothy Hamel-Smith
Mr. Colm Imbert
Mrs. Camille Robinson-Regis
Mr. Anand Ramlogan, SC
Dr. Rupert Griffith, MP

Member (excused)
Member (excused)
Member (excused)
Member (excused)
Member (excused)

Secretariat

Mrs. Nataki Atiba Dilchan
Ms. Chantal La Roche
Ms. Candice Skerrette
Ms. Susan-Leigh Christopher

Clerk of the Senate
Legal Officer
Procedural Clerk Assistant
Legal Officer

Representatives from the Personnel Department

Ms. Stephanie Lewis
Mr. Beresford Riley

Chief Personnel Officer
Deputy Chief Personnel Officer

INTRODUCTION

- 1.3 The Chairman called the meeting to order at 9:49 a.m.
- 1.4 The Chairman indicated that Mr. Hamel-Smith, Mr. Imbert, Mrs. Robinson-Regis and Mr. Ramlogan, SC and Dr. Griffith requested to be excused from the meeting.
- 1.3 The Chairman acknowledged the presence of Mr. Stephen Boodram, UNDP Project Manager and Mrs. Nataki Atiba-Dilchan, Clerk of the Senate.

CONFIRMATION OF MINUTES

3rd Meeting held on January 23rd, 2015

- 2.1 The Committee considered the Minutes of the 3rd Meeting held on January 23, 2015.
- 2.2 There were no proposed amendments to the Minutes.
- 2.3 The motion for the confirmation of the Minutes was moved by Mr. Prescott, SC and was seconded by Mr. George.

MATTERS ARISING FROM THE MINUTES

- 3.1 As per item 4.2, Members were advised that the Secretary wrote to Mr. Martin Daly, SC and Mr. Michael de la Bastide, SC via letters dated January 27, 2015.
- 3.2 As per item 5.1, the Secretary wrote to officials of the Personnel Department, the Ministry of Local Government and the Public Service Commission to attend today's public hearings. Officials from the Public Service Commission advised that they were unable to attend. The Minister of Local Government indicated she had a conflicting meeting but expressed her willingness to attend at a re-scheduled date. In addition, the Personnel Department confirmed ability to attend the hearing between 10:00 a.m. to 11:00 a.m.
- 3.3 As per item 5.2, the Secretary circulated an Issues Paper for the Committee's use.

PRE-HEARING DISCUSSIONS

- 4.1 The Chairman outlined the main areas of the Issues Paper. He indicated that due to a limited time frame focus for today's public hearing would be placed on the written submission on the Pre-Policy Paper and the CPO would be invited to another meeting to discuss the Legislative Proposal.

OTHER BUSINESS

- 5.1 The Committee agreed that its next meeting would be held on Wednesday February 04, 2015 at 9:30 a.m. (in camera) and 10:00 a.m. (public) with officials of the Public Service Commission and the Minister of Local Government (subject to availability).
- 5.2 The meeting was suspended at 10:09 a.m.

[Members exited the Arnold Thomasos Room (East) and proceeded to the J. Hamilton Maurice Room]

PUBLIC HEARING WITH OFFICIALS OF THE PERSONNEL DEPARTMENT

- 6.1 The Chairman reconvened the public meeting in the J. Hamilton Maurice Room at 10:16 a.m.
- 6.2 The Chairman welcomed officials from the Personnel Department and introductions were exchanged.
- 6.3 Detailed below are the issues raised and the responses which emanated from the discussions with the Personnel Department:

i. Opening Statements

- a. The CPO thanked the Committee for the opportunity to clarify its submissions. She also indicated that its submissions were provided with a level of objectivity and critical analysis.
- b. The CPO conveyed that the Office of the Personnel Department was not, by its comments, expressing approval or disapproval on parliamentary autonomy.

ii. Separation of Powers

- a. It was reiterated that at present there is no complete separation of powers, since there are a number of members of the executive within the legislature. Therefore, the Committee should consider whether parliament would be truly autonomous since there is overlap between the executive and the legislature.
- b. The Pre-Policy Paper does not clearly set out evidence for the rationale and requires further depth to justify the need for parliamentary autonomy and arrangements in other jurisdictions.

iii. Staffing

The Committee was informed of the protection mechanisms for employees and the checks and balances to ensure neutrality and objectivity of parliamentary staff. She further indicated that not only must the staff of the Parliament be neutral, but there must also be the appearance of impartial staff.

iv. Common Issues from other Authorities

- a. The CPO outlined the following issues from other Authorities:
 - Human elements of fear and uncertainty;

- Protection and depletion of Public Service Association's and the National Union of Government and Federated Workers' membership;
 - Compromises made to achieve an Authority may not necessarily lead to an ideal staff establishment; and
 - Need for the establishment of a committee to deal with transition arrangements which focus on the human element.
- b. The Committee was informed that the process towards a Regional Health Authority (RHA) took approximately ten (10) years. Details included legislative provisions for secondment up to ten (10) years and the Public Service Commission "noting" staff that have chosen to move to the Authority.
- c. It was conveyed that the RHAs did not have the chance to set-up the required structures and difficulties were caused because the structures within the RHA mirrored structures in the civil service. Although, the mirrored scenario will give employees comfort, at some point difficult decisions would have to be made with respect to the staff numbers and types of positions required.

ADJOURNMENT

7.1 The adjournment was taken at 10:48 a.m.

I certify that these Minutes are true and correct.

CHAIRMAN

SECRETARY

February 02, 2015



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port of Spain International Waterfront Centre
1A Wrightson Road, Port of Spain

**MINUTES OF THE FIFTH 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,
AND THE J. HAMILTON MAURICE ROOM, OFFICE OF THE PARLIAMENT, TOWER D,
PORT OF SPAIN ON
FRIDAY MAY 29, 2015 AT 10:47 A.M.**

PRESENT

Committee Members

Hon. Wade Mark, MP
Sen. the Hon. Raziah Ahmed
Mrs. Nela Khan, MP
Mr. Elton Prescott, SC

Chairman
Member
Member
Member

ABSENT

Ms. Marlene Mc Donald
Mr. Colm Imbert
Dr. Rupert Griffith
Mr. Garvin Nicholas
Mr. Brent Sancho
Mrs. Camille Robinson-Regis

Member (excused)
Member (excused)
Member
Member
Member
Member

Secretariat

Ms. Chantal La Roche
Ms. Candice Skerrette

Legal Officer
Procedural Clerk Assistant

INTRODUCTION

- 1.1 The Chairman called the meeting to order at 10:47 a.m.
- 1.2 The Chairman indicated that Ms. Mc Donald and Mr. Imbert requested to be excused from the meeting and welcomed Mrs. Raziah Ahmed.

CONFIRMATION OF MINUTES

3rd Meeting held on January 30, 2015

- 2.1 The Committee considered the Minutes of the 4th Meeting held on January 30, 2015.
- 2.2 The Minutes were amended as follows:
- Item 6.1(ii)(a): Delete "It was reiterated that presently there is no complete separate of powers," and replace with "It was reiterated that at present there is no complete separation of power,";
 - Item 6.1(iv)(c): Delete the word "that" in line 3.
- 2.3 The motion for the confirmation of the Minutes, as amended, was moved by Mrs. Khan and was seconded by Mr. Prescott, SC.

MATTERS ARISING FROM THE MINUTES

3.1 As per item 5.1, Members were advised that a meeting scheduled for Wednesday February 04, 2015 and other dates in the months of March, April and May with the Public Service Commission and the Constitutional Affairs and Parliamentary Studies Unit were unable to be convened due to lack of quorum.

DISCUSSION OF THE DRAFT POLICY DOCUMENT AND PRELIMINARY REPORT ON APPROPRIATE RECOMMENDATIONS ON PARLIAMENTARY AUTONOMY IN TRINIDAD AND TOBAGO

4.1 The Chairman invited comments on the Draft Policy Document and Preliminary Report on Appropriate Recommendations on Parliamentary Autonomy in Trinidad and Tobago which were circulated to Members.

4.2 After much discussion, the Committee agreed that Members would have until the next Committee meeting to provide final comments on both drafts.

THE WAY FORWARD

5.1 The Committee agreed that its next meeting would be held on Wednesday June 3, 2015 at 9:30 a.m. (in camera) and 10:00 a.m. (public) with officials of the Constitutional Affairs and Parliamentary Studies Unit and the Public Service Commission.

5.2 The Secretariat was directed to prepare a draft report.

ADJOURNMENT

6.1 There being no further business for consideration, the Chairman adjourned the meeting to Wednesday June 3, 2015 at 9:30 a.m.

6.2 The adjournment was taken at 11:47 a.m.

I certify that these Minutes are true and correct.

CHAIRMAN

SECRETARY

June 1, 2015

APPENDIX III

Policy towards an Independent Parliament – Ensuring Parliament’s functional autonomy

PARLIAMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO

Functional autonomy for Parliament

Joint Select Committee – Legislative Proposal

May 2015

Introduction

1. In 2014, the Committee published its 'Report of the Joint Select Committee on the Legislative Proposal Entitled, "The Draft Houses of Parliament Service Authority Bill, 2014"' which included a number of submissions to our consultation on the draft Bill. We then worked further on the underlying policy of the Bill and conducted a second consultation exercise which closed in January. This elicited additional responses from a range of bodies in the public and private sectors and also individuals.
2. The Committee wishes to thank those who took the trouble to write to it. All the responses received have been carefully analyzed and all have contributed materially to our work. In addition, we conducted a hearing at which Ms Stephanie Lewis, the Chief Personnel Officer and Mr Beresford Riley, her deputy, were invited to speak to their submission. The Committee benefitted from this exchange and we wish to thank Ms Lewis and Mr Riley for their attendance and input.
3. Our policy is contained in this document that, first, sets out the text of the Pre-policy on which we consulted; briefly surveys the main themes contained in the submissions received; and finishes by stating the policy. Annexed is advice which informed our work at an earlier stage; The Draft Houses of Parliament Service Authority Bill, 2014, which reflects the policy we have agreed; and the submission texts from the second consultation. We trust this suite of documents, taken as a whole, sets forth clearly the policy rationale. The Committee has now concluded its work on autonomy in this 10th Parliament and it will lie with the 11th Parliament to carry this important project forward.

Hon. Wade Mark MP
Chairman

'Pre-policy'

4. In December 2014, the Committee consulted on the following 'Pre-policy' document:

"Parliamentary Reform

Reform in the Parliament of Trinidad and Tobago is long overdue.

Since independence, over half a century ago, parliament has effectively been an adjunct of the executive government unable to freely appoint its own staff or with powers to raise the financial resources it requires. Nor is it free to determine its own internal governance arrangements. For such matters, it depends on the government, just as a government ministry does.

But parliament is not a ministry of government. According to our constitution parliament is a completely separate arm of the state fully equal to the judiciary and the executive. Democracy itself depends upon the efficiency and effectiveness of a well-resourced and vibrant parliament.

Parliament is the unique forum in which the voice of the people can be heard and its will done. It is the focus of national debate and the democratic center of our country. Its purpose is to further our peaceful development and promote our economic prosperity.

From day to day, parliament exists to ensure that sound and well-considered laws are passed; that there is rigorous and informed oversight of government; and that citizens are well represented by their members of parliament.

Every citizen of our country has a direct stake in the functioning of parliament.

That parliament is not 'master in its own house' however impedes its ability to fulfill its constitutional mandate. That is why our present parliament is not fully fit for purpose and why this country requires a parliament independent from the executive as envisaged in the constitution.

A strategic approach

In 2013 parliament took a major step forward by adopting for the first time a Strategic Plan that set forth an exciting and comprehensive change program for the period to 2018. The purpose of this program is to revitalize the parliament for the 21st century and beyond so that it is fully able to fulfill its constitutional mandate.

The strategy of parliament is in effect a commitment on its part to the people to test every aspect of its work including, oversight of government, legislative processes, representation of the people, and its capacity to run itself and, where found wanting, to initiate reform.

A start to reform has been made. Last year important new committees were set up, the election of the Speaker streamlined, Prime Minister's Question Time established, and provision for urgent questions created.

But much, much more needs to be done including provisions for making parliament functionally independent of the government.

Independence for parliament

Independence or autonomy means the parliament's ability, independent of government, to:

- Appoint its staff

- Determine the financial resources it requires, and
- Decide on its internal governance.

Autonomy for parliament is a central objective of the Strategic Plan adopted last year. Why does this matter?

The reason it matters is that without these 'core' freedoms parliament is too much within the control of government which, under our constitution, parliament was set up to oversee and to hold accountable. This means parliament cannot perform its constitutional functions fully, nor keep pace with the increasing demands made of it, or independently seek administrative efficiencies. It is therefore unable to serve the people as well as we would like.

In 2003, the heads of government of the Commonwealth, including Trinidad and Tobago, endorsed the vital importance of parliaments having the freedom to fulfill their legislative and constitutional functions ('Latimer House Guidelines').

Subsequent work by the Commonwealth Parliamentary Association, based on these Guidelines, has stressed the importance of the 'core' freedoms above to fulfilling those basic legislative and oversight functions. Such arrangements are now in place in many parliaments worldwide and have become a normal feature of parliamentary administration. The time is long overdue, in our opinion, for their implementation in the Parliament of Trinidad and Tobago.

It is our aspiration that the parliament which assembles after the forthcoming general election in 2015 should mark a new beginning for the institution, one that is well on the road to implementing positive cultural, procedural and administrative changes designed to improve radically its capacity to fulfill its constitutional mandate.

We trust therefore that the voters will determine that the election of members on this occasion amounts to a solemn commitment on the part of those members to an open-ended and vigorous program of improvements in parliament's ethical standards, business procedures and capacity, and administration.

Consultation

This committee (Joint Select Committee – Legislative Proposal) was established earlier this year. It made a call for evidence earlier concerning the 'core' freedoms as outlined above on the basis of a Legislative Proposal ("The Draft Houses of Parliament Service Authority Bill, 2014" available on the parliament website [www. ttparliament.org](http://www.ttparliament.org)) laid in the House of Representatives and the Senate.

The Legislative Proposal (which takes account of the recommendations of the CPA on

appropriate parliamentary administration) is one model for seeking to achieve efficient and autonomous management and administration of the Parliament. It does so by dismantling and replacing the existing public service model with an independent non-partisan Houses of Parliament Service Authority, a body corporate, to be managed by a Board comprising Members of Parliament representative of the Government, the Opposition and the Independent Senate bench, and chaired by the Speaker.”

Submission issues

5. The Committee was delighted to receive 13 (12 substantial) submissions in response to its consultation on the Pre-policy for functional autonomy for Parliament. The text of the submissions is contained in an Annex to this document and we would like to thank those who were gracious enough to write to us. The Committee also had the benefit of a hearing with Ms. Lewis, the Chief Personnel Officer (CPO), and Mr. Riley, her Deputy, on January 30, 2015 and we would like to thank both witnesses for an informative and interesting session.

6. It is clear from the documents we received that no one has challenged the principle of functional autonomy for Parliament. On the contrary, consultees have welcomed this initiative while at the same time raising a number of interesting and relevant questions that we seek to address below.

7. Some consultees queried the reason for this initiative. We hope that the advisory document annexed to this Policy that discusses autonomy in considerable detail will help satisfy this question. The fundamental practical point that the Committee wishes to make is that a professional Parliament needs a fully professionalized staff and control over the deployment of its resources. A modern Parliament’s administration requirements and functions are wholly distinct from those of government and it follows that its staff are not readily interchangeable with those of government service. Functional autonomy for Parliament is neither more nor less than a working through of the separation of powers between executive, legislature and judiciary that comprises the fundamental basis of our Constitution.

8. As noted in the Pre-policy document, Parliament is currently treated administratively as if it were a department of State when it is constitutionally wholly separate. It simply cannot be right in the 21st century for a Parliament charged with enriching the governance of our country through its legislative, oversight and representational responsibilities, to rely for its procedural and administrative staff either upon the public service which also supports the executive, or on contract staff. The Committee believes that such arrangements are no longer fully fit for purpose and are actually unsustainable if we are to grow and develop here in Parliament as we would wish.

9. The governance model advanced in this Policy and the draft Bill is intended to provide for a more rationally administered and creatively agile Parliamentary Secretariat enabling staff to have increasingly well-structured life-long careers in the service of Parliament, with clear promotion paths

and a strong sense of professionalism. We think that this will mean improved staff morale and functionality. Such improvements are not only ends in themselves however. We firmly believe that Parliament institutionally will accrue enormous benefits in undertaking its 'core' constitutional functions of passing legislation, oversight of government and representation, from improvements arising from this policy. This in turn will benefit the overall governance of our country and the consideration afforded to each and every citizen.

10. We accept that the impartiality of the public service is presently guarded by the independence of the Public Service Commission. We do not accept however that this approach is the only one that can ensure impartiality. We consider that clear and transparent personnel, management, performance and a range of other policies will enable our self-governing Parliament to establish and further promote a service of high integrity and operational effectiveness, and it will be the responsibility of the proposed House of Parliament Service Authority ('Authority'), once established, to ensure that these policies, roles and responsibilities are put in place. Such a model is in use throughout the world in many parliaments, is promoted actively for example by the Commonwealth Parliamentary Association, and has been under consideration in our own jurisdiction for almost 20 years.

11. Reference has been made in submissions to the interdependence of the arms of the State. We agree and wish to reiterate the proposed policy of functional autonomy for Parliament is neither intended, nor will, make co-operation between the different part of the State more difficult. On the contrary, the more efficient and effective service that we believe will result from this initiative will increase Parliament's capacity to undertake its Constitutional functions and to provide support to the overall better governance of our people.

12. A suggestion we received from the Ombudsman at the stage of consultation on the draft Bill in 2014 was that the opportunity of this Bill should be taken to make reforms in the Office of the Ombudsman of Trinidad and Tobago, specifically providing that Office with control over its financial and human resources. This is broadly in line with the norm in other jurisdictions and having considered the matter carefully we agree that this is both appropriate in the present context – the Ombudsman being an officer of Parliament – and sensible in substance. It would appear inappropriate at a point where Parliament was establishing an independent staff service for the Ombudsman to continue to rely upon seconded public officers.

13. Consultees' queried the exclusively parliamentary make up of the proposed Authority, and one proposed that the Authority would benefit by having non-executive members. We have considered this matter and note that non-executives are a feature of the governance of parliaments in other jurisdictions though often on supporting boards rather than in the first tier of management. It is fundamental to our approach to functional autonomy that the new arrangements for the governance of Parliament should be as transparent as possible to the public of Trinidad and Tobago and having

an external element may assist this. We also see the benefits of wise advice from outside Parliament on issues affecting the administration of the nation's legislature.

14. In addition to these broader points many of the issues raised by consultees concerned extremely important points of finer detail of staff management in the context of the implementing functional autonomy. This was particularly true of the submissions from the staff of Parliament, which we warmly welcome, and also the Public Service Commission and the Chief Personnel Officer, for which we are also most grateful.

15. The Committee's view of autonomy is that it is a process and not an event. Consequently, such matters will be addressed in timely fashion through implementation arrangements and structures, designed to be transparent and inclusive, and composed of the relevant officials of the Secretariat of Parliament and Government who will be charged with ensuring that transitional arrangements, particularly those affecting individual members of staff, will be implemented as smoothly as possible.

16. Naturally, such arrangements must await Parliament's agreement to the Bill, but the Committee has implementation actions in mind, for example:

- Inviting the relevant Government bodies responsible for publicly funded staff, and others, to join with the Secretariat to manage the detail of implementation reporting to Parliament and the Government.
- Establishing a proactive communications strategy to ensure that all key stakeholders, especially staff, are fully engaged and informed throughout the implementation phase.
- Setting out a comprehensive 'road map' for functional autonomy to ensure that agreed progress is made and that all relevant actions are captured.

17. The intention is to move steadily towards full implementation of autonomy with the passage of legislation being seen as a first step. This will enable all stakeholders time to set up and action relevant transitional arrangements; very importantly, staff will be able to make decisions in a timely fashion and with full information on options and other matters; and throughout this period there must be no disruption to the legislative and oversight business of Parliament, and the progress of Government must remain unimpeded. We trust that this approach will provide reassurance to all parties.

Recommended policy

18. The policy recommended by this Committee is that Parliament shall have the power, by means of primary legislation, to: appoint its staff; determine its financial resources; decide upon its form of internal governance.

19. In order to accomplish this policy the relevant legislation shall include provision for:

- A Parliament Service Authority ('Authority') in the form of a body corporate and an Authority Board with appropriate membership.
- Vesting in the Authority land, property, rights, assets, obligations of the former department.
- Powers and functions for the Authority enabling it to fulfill the policy set out above.
- The Clerk of the House to be the advisor and chief executive officer of the Authority responsible to it for Authority business and with suitable powers of delegation.
- A House of Parliament Service Authority Fund into which funds are to be paid by Parliament and from which expenses will be paid incurred under the Act.
- An Authority bank account or accounts.
- The Clerk to prepare and the Authority to approve Estimates for inclusion in the Appropriation Bill.
- Appropriate accounts and auditing arrangements.
- The employment, transfer, secondment of staff for Parliament.

Conclusion

20. We wish to repeat our thanks to those who have taken the trouble to engage with us. We are heartened to learn that there is considerable support for functional autonomy. The contributions received have materially deepened our understanding and raised matters that will require satisfactory resolution as a part of moving this process forward. We are confident however that such a resolution will be achieved, subject to Parliamentary approval. Finally, several of those who have written so helpfully to us will have a vital role in the successful implementation of functional autonomy, and we look forward to continuing the positive collaborative work with them started by this consultation process.

APPENDIX IV

Preliminary Report on Appropriate Recommendations

PARLIAMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO

PRELIMINARY REPORT ON APPROPRIATE RECOMMENDATIONS

1. Report 1

This report, necessarily preliminary and relatively light touch:

- Notes the documentation forwarded by the UNDP for review (4)
- Refers to other relevant documents (4-5)
- Considers autonomy for parliament (6-9)
- Discusses MPs' involvement in autonomous parliamentary administration (10-17),
- Reflects on what the 'core' of autonomy comprises in the present context, with points for legislation (18-30); and
- Offers general conclusions (31-32).

The intention of Parliament appears clear. The process of seeking to establish an administratively autonomous parliament has been pursued for a considerable period.

That much of the ground is well covered is evidenced by the documents made available, and that being so, there is no need at this stage for an exhaustive conceptual and comparative research rehearsal.

This report therefore focuses selectively on key issues and practicalities seeking to provide relevant insights, and is intended to provide a basis for further discussion.

2. Documents

Primary

The following documents were reviewed:

- *The Constitution of the Republic of Trinidad and Tobago* (Doc 1 - marked 'Unofficial version updated to June 30th 2013')
- Report of Joint Select Committee (JSC) 2000 (Doc 2)
- *Working paper on the reform of the management structure of the Parliament of Trinidad and Tobago*, Law Commission (Doc 2A- annexed to Doc 2)
- *Strategic Plan of Parliament 2013-18* (Doc 3)
- Note for Cabinet 30 January 2014 (Doc 4)
- Report of Joint Select Committee (JSC) 2014 (Doc 5)
- A draft entitled 'Parliamentary Services Authority Act [sic]' (Doc 6)

Secondary

Reference is made to a relatively small number of secondary documents, amongst which are two reports:

- First, *Administration and Financing of Parliament* of the Commonwealth Parliamentary Association (CPA) 2005;¹ and,
- Second, the, *Commonwealth [Latimer House] Principles on the Accountability and Relationship between the Three Branches of Government*, (Commonwealth Principles) endorsed by the Commonwealth heads of government meeting in Abuja, Nigeria in 2003, and on which the CPA's 2005 report referred to above appears to have been based in part.²

Both CPA documents are significant not only for the various practicalities addressed therein but in providing a relevant principled framework for the present autonomy work of the Parliament of Trinidad and Tobago.

- Third, various, essentially research or information documents are noted or have been taken account of, for example, documents of the Inter Parliamentary Union (IPU) and the Commonwealth Parliamentary Association (CPA) setting out the position on matters relevant to autonomy in respect of a number of parliaments, and covering more general topics.³

References to documents arising in those contexts appear periodically throughout this report.

3. Autonomy in financial and administrative arrangements of parliament

Principle

The desire of this parliament for autonomy in its administration evidently goes back some time, from the information available to me at least to 1997 (Doc 2, paragraph 1) and possibly before.

In the course of considerable work, comparative research has been completed by parliament and others to determine the arrangements made by states for the administration of their parliaments in a number of jurisdictions (Doc 2A, 3.1 – 3.14). This has contributed to the stakeholders understanding relevant issues preparatory to moving ahead with changes.

The documents reviewed, taken together, appear to reflect a desire on the part of parliament to take command of the resources it requires within a self-governing framework.

¹ The group responsible for this report included the representatives of nine Commonwealth countries and eleven parliamentary services' representatives, including Trinidad and Tobago, CPA, *Administration and Financing of Parliament*, A Study Group Report, November, 2005 www.cpahq.org Henceforth referenced as 'CPA'

² CPA, April 2004

³ For example, A. Rahman, 'The Independence and Neutrality of the Parliamentary Service', April, 1992; M. Couderc, 'The administrative and financial autonomy of parliamentary assemblies', (Moscow Session of the ASGP), September, 1998 as cited in CPA, op.cit, p. 27; CPA, 'Recommended Benchmarks for the CPA Caribbean, Americas, and Atlantic Region Democratic Legislatures', December 2011. There are myriad related documents to be found on the appropriate parts of the websites of the UNDP, IPU, CPA, and the AGORA partnership

The circumstance whereby parliaments have depended upon executive branches to oversee their essential resource and administration requirements has not been exceptional.

Paradoxically, such resource arrangements frequently go hand in hand with a constitutional context in which the three main arms of the state system –executive, judiciary, legislature - are distinct. Typically, while such a position remains undisturbed for a period, there comes a time where it may no longer appear appropriate, as in the present case.

For example, in the case of Solomon Islands, a country that achieved independence from Great Britain somewhat later than Trinidad and Tobago (July 1978) the relation between the executive and parliament branches has parallels with what appears the case here where, (1) resources for the day-to-day operation of parliament are in the hands of the executive and, (2) there is recognition that such arrangements are no longer fit for purpose.⁴

Paragraph 1.1 of the current *Strategic Plan* of this parliament notes some features of autonomy as presently envisaged, including:⁵

- A management board established comprising appropriate stakeholders
- Protected status for the Clerk
- A 'staged process' of implementation
- Co-operation on implementation with the executive branch

What is being proposed in Trinidad and Tobago therefore seems to be, in principle, a logical, appropriate and largely administrative consequence of the clear legal distinction drawn in the *Constitution of the Republic of Trinidad and Tobago (Constitution)* between legislative, executive and judicial aspects of state (Doc 1).

Practicalities

Any such change, however rational and constitutionally proper, is certain to have significant practical implications that need to be addressed with care. Three may be mentioned in general terms.

⁴ The present *Strategy of the National Parliament of Solomon Islands: 2012-2016*, discussing autonomy, states at para 1.1: 'A key issue in terms of allowing Parliament to develop and become increasingly self-sustaining over the next 5 years will be ensuring that Parliament is in a position to become increasingly autonomous from the Executive. In line with the agreed benchmarks for Pacific Parliaments and in line with the principles of international best practice, the Parliament needs to move towards becoming autonomous from the Executive in terms of taking responsibility for Parliamentary staffing, budget and work planning. In addition to the central principle of good governance, the move towards autonomy will be an important step in terms of developing the capacity of the Parliament and creating a cadre of specialized Parliamentary staff. Therefore, during this period the Parliament will draw up plans and implement a staged process of moving towards Parliamentary autonomy.'

⁵ *Strategic Plan of the Parliament of the Republic of Trinidad and Tobago 2013-2018*, pp.11-12

First, the practical desirability of such changes, and especially the particular detailed form of the changes proposed to bring about this result in the present case, will be matters dependent upon the particular circumstances of Trinidad and Tobago, and are for further detailed consideration by the stakeholders.

Second, that change is, in its essence, an assumption of responsible stewardship on the part of parliament for a range of matters that previously were the responsibility of executive government. This will inevitably have a variety of resource, structural, and cultural implications depending of course on the exact future relation envisioned between the executive and parliament.

Third, as in all change processes, it is vital to the success of what is proposed that:

- Stakeholders cooperate well, and that their interests are genuinely engaged
- The key aspects of and risks to the change are identified early on
- That a responsible 'delivery mechanism' is agreed (utilizing the strategic plan process where appropriate), and
- There is a realistic appreciation of the resources required by parliament.

These are matters that need to be considered in detail, and to be agreed prior to action being initiated.

Relevant discussions along those lines are surely already advanced, and exchanges with stakeholders may be advanced during the planned December visit.

4. Involvement of members of parliament in parliament's administration

One major feature of an autonomous parliament is the broader role that Members are required to play normally in parliament's administration as compared to circumstances in which the responsibility for such matters rests with the executive.

The Law Commission's 1998 paper (Doc 2A, 4.2) recommended that so far as the reformed parliamentary department was concerned, that department 'should be structured so as to afford Members of Parliament, as the major stakeholders in the institution, the opportunity to determine matters pertaining to the running of the Parliament.'

This reflects the roles of such members as may be selected for parliamentary administration.

For example, in the case of the Scottish Parliament, the individual responsible for presenting the proposed forthcoming annual budget for parliament to the Finance Committee for scrutiny prior to subsequent processes in the chamber of parliament would be that elected member of the Scottish Parliamentary Corporate Body allocated the lead on policy responsibility for parliament's internal

finance resources. She or he would naturally do so in concert with the Accounting Officer who would be the Clerk of Parliament.

A not dissimilar arrangement is found at Westminster.

I note that the Joint Select Committee (JSC), in its 2000 report, referred to the Law Commission's report (Doc 2) and highlighted 'concerns' then on the part of some of those consulted 'of having politicians serve on a Service Commission' (Doc 2, 21).

Endell

In that connection, reference was made to a Privy Council judgment in the case *Endell Thomas v Attorney-General of Trinidad and Tobago* [1982] AC 113 (PC) where the purpose of Chapter VIII of the *Constitution* was said to act as a protection to the public services from political interference.

This was a concern apparently shared then by staff of the Parliament Department (Doc 2, 21).

This case, amongst other matters, has also been referred to in the submission of the Chairman of the Public Service Commission to the present consultation dated 4 June 2014 (Doc 5, Appendix B).

Lord Diplock in *Endell*⁶ stresses the 'whole purpose' of Chapter VIII as a bulwark 'to insulate members of the civil service, the teaching service and the police service in Trinidad and Tobago from political influence exercised directly upon them by the government of the day. The means adopted for doing this was to vest 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.'

Further on, he points to the existence of Constitutional provisions ensuring the independence of the responsible commissions in each of those areas from 'both the executive and the legislature'.⁷

2000

Briefly, this case appears to have arisen in the context of questions of parliamentary administration by reason of the prospect of the involvement of members of parliament in the running of such an administration, including potentially staff matters.

In respect of certain 'service commissions', the constitutional position appears to have been that members of parliament have been disqualified for appointment on these bodies by reason of their status as members (*Constitution*, s 126 (1)). This appears to remain so.

⁶ [1982] AC 113 (PC) 113 at 124C

⁷ [1982] AC 113 (PC) 113 at 124F

The 2000 JSC report proposed a commission - which it appears (though it is not absolutely clear) envisaged section 126(1) biting - 'with powers to appoint, transfer, promote, discipline and terminate parliamentary officers' (Doc 2, para 23, p.12). Such a commission, described as 'independent and separate' by the Committee, would not however sit under the umbrella of the Public Service Commission for reasons laid out in the 2000 report at Doc 2, para 22, p.9.

At the same time, the Committee envisaged there would be set up a 'Parliamentary Service' (Doc 2, para 26 A(i), p.11, and a 'Parliamentary Management Board' chaired by the Speaker of the House of Representatives and comprising certain members of parliament (Doc 2, para 26 (C) (i),(ii), p.12).

This arrangement appears to have been directed towards two purposes: first, to retain the benefits of Section 126 relating to staffing matters for the proposed 'Parliamentary Service'; second, and at the same time, providing the opportunity for parliament to begin to manage its own administration by means of a proposed 'Management Board' comprising members, a policy evidently favored by the Committee (Doc 2, para 24, p.10).

2014

The present proposal, while retaining important aspects of the policy evident in the 2000 documents, in particular the wish to establish a discrete service for parliament and the desire to involve members of parliament in the running of the administration of that service, takes a somewhat distinct approach to that outlined earlier.

First, an 'Authority' with a number of powers, including the power to employ staff in fulfillment of its purpose, is envisaged (Doc 6, 9(1)(a) and 43 (1)).

Then there is to be an Authority 'Board' chaired by the Speaker (Doc 6, 12). This Board has various functions which may be said to amount to providing for and running the administration of parliament (Doc 6, 19).

It appears that there is no mention of section 126 of the *Constitution* in the draft Bill; employees of the proposed Authority have no status as 'public officers' (Doc, 43(4)). It is proposed however that staff seconded from the public service may serve in Parliament subject to the approval of the relevant Service Commission or statutory authority, and with the consent of the proposed Authority (Doc 6, 45 (1)).

Turning to parliament's powers under the *Constitution*, under section 53, it appears that 'Parliament may make laws for the peace, order and good governance of Trinidad and Tobago...'; and section 54 provides for the amendment of the *Constitution* by Parliament subject to a number of conditions being met and which are set out. I take it therefore that Parliament would be acting within its powers in passing legislation on the lines of the draft Bill.

Policy

It appears clear from the papers sent to me, and without the opportunity to research further, that there has been a steady policy intention for a number of years to enable members of parliament to become involved in the administration of parliament, though the means by which that intention is to be realized has been a matter of debate.

The general intention underlying this policy appears to have been, in the conception of the JSC in 2000, to enable those management arrangements for the administration of parliament perceived to have outlived their usefulness to be changed, and for the establishment of a separate administration (secretariat) for parliament, apart from the executive (Doc 2, para 16, p. 7).

It followed on from this that the role of members of parliament in any new arrangements for administration had to be considered given the centrality of their role within parliament (Doc 2, para 24, p. 10).

Any suggestion of exclusion from the autonomous administration of parliament of those most central to it, the members, would on the face of matters appear quixotic, if what is desired is to create an autonomous parliament in the sense of the term used by the CPA and others.

As indicated by the example above, members' detailed involvement in bodies responsible for running legislatures is normal in many countries, for example, the House of Commons at Westminster, the Scottish Parliament, the Parliament of Sierra Leone, and elsewhere.⁸

That said, care must be taken to ensure that the arrangements put in place to bring about autonomy achieve a number of objectives designed to promote high ethical and professional standards in the discharge of the administration, including:

- Inculcating transparency, inclusivity and fairness within the unique political structure of the institution
- Resourcing the administration's official side adequately to enable the office to discharge its functions effectively and efficiently; and,
- Inspiring all those having an administrative role to demonstrate leadership in ethical and accountability matters, and making the appropriate skills and information to those ends accessible.

As fundamental as a legally based structure, and providing an essential context in which that structure can operate well and develop, is the encouragement of a culture of corporate self-

⁸ The relevant legislative provisions are the, House of Commons (Administration) Act 1978 s 1(2) (a)-(d); Scotland Act 1998 s 21; The Parliamentary Service Act 2007 s 5, respectively

restraint, cross-institutional co-operation, and accountability, especially in the use of public monies, in parliament.

This is a prospect that is intrinsically more challenging to every parliamentary institution than setting up the formal legal structures of autonomy, not least because it is a permanent dynamic process rather than a time bound set of actions.

So far as such a culture is concerned, the main lead reposes with the heads of parliament and the executive. A major responsibility also rests on the official head of the parliamentary service, and the head of the national audit service.

It is to those post-holders in particular (but also and more broadly to all stakeholders) that the institution will look to stimulate the sense and skills required to grow and to manage successfully a progressively maturing culture of accountability.

5. Parliamentary autonomy

Autonomy: formalities

The terms 'independence' and 'autonomy', which scatter the literature, are probably not entirely helpful in capturing what is meant by parliamentary autonomy because their usual deployment is to lay stress upon a state of being separate.⁹

For example, in the UK House of Commons, Paul Evans' words paint a highly self-sustaining picture of the institution: 'The House is responsible for the management of its own estate, the employment of its staff, the provision of services, to the House as a whole and its committees and the broadcasting of its own proceedings. It enjoys *complete financial independence from government* (my emphasis).'¹⁰

The CPA notes that there do not appear to be 'uniform answers' to parliamentary corporate management.¹¹

At the same time, it provides a clear recommendation that: 'Parliaments should, either by legislation or resolution, establish corporate bodies responsible for providing services and funding entitlements for parliamentary purposes and providing for governance of the parliamentary service.'¹² This

⁹ Oxford English Dictionary (OED), <http://www.oed.com.libezproxy.open.ac.uk/>

¹⁰ P. Evans, *Handbook of House of Commons Procedure* (8th ed.) London: Dods, 2011-12, 18.1.1, p.221; see also the reference to P. Marsden, *The Officers of the Commons* (2nd ed.), London: HMSO, 1979, p.15, at Doc 2A, pp.24-25

¹¹ CPA, p. 27

¹² CPA, p.13

reflects the intention in Trinidad and Tobago as set out in the draft Bill and in parliament's *Strategic Plan*.

The CPA's approach is not theoretical but straightforwardly reflects the legal framework that may currently be found elsewhere in parliaments of democratic jurisdictions,

The *Commonwealth Principles* documents at VII (4),(5),(6) identifies specific requirements for parliamentary autonomy:

- Parliament should be serviced by a professional staff independent of the public service
- Adequate resources should be provided to government and non-government backbenchers in order to improve parliamentary impact and should include provision of:
 - Training for new members
 - Secretarial, office, library and research facilities
 - Drafting assistance including private members' bills
- An all-party committee of parliament should review and administer parliament's budget, which should not be subject to amendment by the executive.¹³

Parliamentary autonomy is seen as conferring a number of specific rights and responsibilities that are spelt out in the CPA's 2005 document, in summary, the:

- Ability to obtain appropriate financial resources
- Freedom of staff from external control whether by government or political party
- Control of parliament over its estate and security arrangements
- Freedom of the corporate body from party politics
- Responsibility for accounting openly for all resources; acting in accordance with very high ethical standards; and communicating regularly with the public transparently.¹⁴

'Formal Core'

The precise form of parliamentary governance chosen by an individual parliament and state must take account of local requirements and what is likely to work well. One size emphatically does not fit all.

Equally, it is somewhat difficult to conceive of parliamentary autonomy in the absence of the key fundamental elements in the CPA picture. These elements –the 'formal core' –are: legal control over (1) financial resources for parliament, and (2) parliament's governance structure.

Autonomy: practice

¹³ CPA, *Commonwealth Principles*, p. 22

¹⁴ CPA, p.26

What then may be said about parliamentary autonomy in practice and as it is experienced beyond this 'formal core' position?

Given that many parliamentary institutions remain under effective control of the executive, the *Commonwealth Principles* document quite understandably focuses upon the separateness of executive, judiciary and legislature, because in many instances the borders between the arms of state may be blurred which can result in overlap, lack of clarity over responsibilities, and consequently may reduce the effectiveness and efficiency of overall governance.

However, formal arrangements clarifying the distinctiveness of parliament in relation to the executive are a necessary but not sufficient means of making autonomy work well. Day-to-day, practical co-operation between the relevant parts of the state is likely to prove fundamental to success in these new arrangements, as throughout governance.

For example, the finance department of the Scottish Parliament shares same a common financial electronic platform with the Scottish Government, and while there is no automatic mutual access as between the two parties, the overall process gains in efficiency and effectiveness, and cost-effectiveness in particular, through such an arrangement.¹⁵

Another example is the link made in the House of Commons (Administration) Act 1978 between remuneration relating to the independent staff of the House and that of government officials (Home Civil Service).¹⁶ The general point is that it is often just where the recognition of the need for institutional autonomy arises, that the demands for the cohesiveness of the state move in balance.

Again, awareness of the contingent nature of parliamentary autonomy may be seen in relation to finance matters in the Scottish context where the Scottish Parliament Corporate Body has made a voluntary commitment to budget cuts corresponding to real term reductions in the overall government budget for Scotland as a result of the UK Comprehensive Spending Review. In 2010-11 the budget reduction was 10%; in 2013-14 the reduction was 12.5%.¹⁷

¹⁵ One of the notable aspects of arrangements for a Scottish Parliament was the way in which the conception of co-operation between the institutions of state colored planning of all aspects of the work from an early stage, for example, The Scottish Office, *Shaping Scotland's Parliament: Report of the Consultative Steering Group on the Scottish Parliament* (1999), The Stationary Office Ltd, p. 3

¹⁶ 'The Commission shall ensure that the complementary, grading and pay of staff in the House Departments are kept broadly in line with those of the Home Civil Service, and that, so far as consistent with the requirements of the House of Commons, the other conditions of service of staff in the House Departments are also kept broadly in line with those in the Home Civil Service.' s. 2(2)

¹⁷ The Scottish Parliament, Scottish Parliamentary Corporate Body, *Annual Accounts 2013-14* (SG/2014/156), p.8

These successive reductions underpinned a package of measures including: a freeze on the pay of members and staff and lowering staff numbers, all managed through a change program.¹⁸

In taking this action, those in the Scottish Parliament responsible for resources and budgeting showed awareness of the need to be seen to take account of the overall UK and Scottish financial climate; and they have sought to balance carefully their financial requirements in ways that both demonstrate parliament's financial autonomy and protect its reputation for good stewardship of public money.

While this is a difficult balance to achieve, it demonstrates again the interconnectedness of the state and the necessity on the part of government and legislature to respond to public expectations of thrift.

Overall, one important key to success for such arrangements as are being contemplated is the development of a high level of inter-institutional trust balancing a high awareness of formal autonomy.

Indeed, it may be helpful to see parliamentary autonomy not solely in terms of separation, rather as a recalibration of the existing relationship between the executive government and the legislature based on an underlying evolution in parliament and state maturity.

Distinguishing clearly between diverse parts of state, and ensuring their administrative integrity, contributes essentially to the ability of each part to contribute to the whole of governance: the justification of each resides in its relation with the whole, and under the conditions of autonomy - where parliament commands its resources separate from the executive -there is an even greater responsibility on it to play its part of co-operation, and to be seen to do so.

The justification for parliamentary autonomy rests, ultimately, on whether it will enhance parliament's capacity to undertake its basic service requirements of passing sound legislation, holding the government to account, and representing citizens.

Autonomy should be able to contribute to this process by addressing the apparent inconsistency of having the executive branch provide resources to the institution designed to exercise oversight upon it.

Notwithstanding this logic however, that result will be achieved only where parliament is willing and geared to shoulder its formal new responsibilities in an accountable and transparent manner.

¹⁸ The Scottish Parliament, Scottish Parliamentary Corporate Body, *Annual Report 2013* (SP Paper 405), Session 4 (2013), pp.18-19

The state cannot operate in the absence of such sound inter-working and practical co-operation between its constituent parts.¹⁹ At the same time, each part of the state must be fully equipped to fulfill its separate role.

Reputation

Broadly speaking, the more financial autonomy an institution has the greater its responsibility to safeguard its ethical reputation.

The 2005 CPA document notes:

'Taxpayers are often critical over the use of public funds with Parliaments often being a prime target and, therefore, it is important that Parliaments build in transparency to its financial arrangements. It is probably public opinion that is the real counterweight to the budgetary autonomy of Parliaments.'

²⁰

Care in this area is essential.

The Solomon Islands' parliament *Strategic Plan* notes: 'Parliament recognizes potential risks in terms of budgetary implications of Parliament being an autonomous body and will work closely with the Executive to put in place clear and transparent rules that will ensure prudent financial management and a smooth transition towards autonomy for Parliament.'²¹

Financially autonomous organizations need to be fully aware in all operations of the requirement to build into their processes and procedures provisions that inspire public confidence in a soundly based stewardship of public money. Once lost, such confidence may not be regained.

Corporate bodies

Parliamentary autonomy is realized through resources for parliament being determined by means that are separate from, and formally speaking independent of, those relating to other parts of the state. Many of the positive features of parliaments arising from well-managed autonomy, for example, those criteria of autonomy identified by the CPA,²² depend upon this arrangement.

As noted previously, those resources are frequently realized by means of a 'body corporate' model whose duty is to obtain and supply the resources required by parliament and enable it to perform its constitutional functions as laid down (Doc 1, s.53).

¹⁹ CPA, p. 2

²⁰ CPA, p. 7

²¹ *Strategy of the National Parliament of Solomon Islands: 2012-2016*, para. 1.1

²² CPA, p. 26

In the case of Scotland, the 'Explanatory Note' to the Scotland Act 1998 makes the policy intention behind an Scottish Parliamentary Corporate Body (SPCB) clear: 'Subsection (3) places a duty on the SPCB to provide or make arrangements for the Parliament to be provided with the property, staff and services which are required for Parliament's purposes. These are the main functions of the SPCB.'²³

Thus, the Scotland Act 1998 s 21(6) provides for the resources required by the SPCB to be paid out of the funds made available to the Scottish Government by the United Kingdom Government (the Scottish Consolidated Fund).

In the case of the House of Commons, Westminster, the responsibility for such provision rests, administratively speaking, with the Finance and Services Committee (a subordinate organ of the House of Commons Commission) established under Standing Order No. 144.²⁴

The committee's main functions, as set out on its webpage,²⁵ are:

- To prepare the Administration Estimate and Members Estimate for submission to the House of Commons Commission and the Members Estimate Committee respectively;
- To monitor the financial performance of the House Administration; and
- To report to the House of Commons Commission, the Members Estimate Committee or the Speaker on the financial and administrative implications of recommendations made to them by other Committees of the House.

There are points to note that are likely to apply to most such bodies.

First, to carry out those functions a corporate body has the support of officials, in Westminster's case the Accounting Officer (the Clerk of the House) and the House of Commons Management Board (heads of House Departments). It is vital that legally based autonomy provisions are supported by a fully capable official structure.

Second, having acquired the legal freedom or duty to raise a budget may entail the seemingly paradoxical obligation (in practice) to demonstrate the ability to *reduce* expenditure.

Similar to the example of the Scottish Parliamentary Corporate Body noted earlier, the Finance and Services Committee in the House of Commons is seeking further savings in its current Estimate plans

²³ <http://www.legislation.gov.uk/>

²⁴ House of Commons, *Standing Orders of the House of Commons (Public Business)*, 2013, SO 144, p.156
<http://www.publications.parliament.uk/pa/cm201314/cmstords/900/900.pdf>

²⁵ <http://www.parliament.uk/business/committees/committees-a-z/commons-select/finance-and-services-committee>

for 2015/16 following on from a saving program started in 2010 and which has reduced the Estimate at 2014-15 from a 2010 baseline by rather more than the 17% target.²⁶

In fact, expectations of cost savings – particularly of new, or reformed, institutions – are not unreasonable: for what could be the justification for pursuing a new administrative structure *less* operationally and financially efficient and effective than the version being replaced?

Third, it is useful also to note the seriousness with which forward financial planning is taken in some of the best examples of autonomous administrations, and this aspect, along with ‘continuous improvement’ (CI) measures,²⁷ is as important as headline savings to a parliament seeking to demonstrate good stewardship of taxpayers’ resources.

6. Legislative expectations: substance and form

In substance, therefore, it appears that legislation needs to produce or help enable the following substantive features of an autonomous parliament:

- A parliament corporate body with the power to secure budgetary requirements without interference from government
- A parliament corporate body that is responsible for providing necessary financial and human resources to parliament
- An officer responsible for accounting for the financial resources provided by the corporate body for the parliamentary service, and an independent auditing arrangement
- An independent parliament staff, set apart from any other service, owing loyalty to parliament, and appointed strictly and transparently on merit. The rights of staff transferring from the public to parliamentary service need to be protected
- Clarity of function and powers within the parliamentary administration and especially between the political and official roles
- A cross cutting culture of accountability, transparency and high ethics in all aspects of parliamentary administration.

So far as the form of legislation is concerned, this of course is a matter for the draftsman and I would not trespass beyond a comment that the length of relevant primary legislation elsewhere varies somewhat but most appears relatively brief.

²⁶ House of Commons, Finance and Services Committee, House of Commons *Financial Plan 2015/16 – 2018/19, including draft Estimate for 2015/16*, First Report of Session 2014/15, HC 757, para 7, p.8. Published 29:10:2014

²⁷ ‘Rather than using programs and projects to achieve efficiencies, CI does so by making services more effective – improving their quality, increasing productivity, cutting costs, or, ideally, all three. This most often takes the form of process reviews, engaging staff on the ground in a continuous round of redesign of their work and harnessing their creativity to solve problems.’ Ibid, para 13, p.7

A reasonable expectation therefore could be that the primary legislative text would be as short as is compatible with completeness of basic matters, with subordinate matters placed elsewhere as required.

7. General conclusions

- The ultimate purpose of autonomy is to ensure that parliament better fulfills its 'core' function goals of passing legislation of high quality, providing rigorous oversight of the executive branch, and ensuring excellent representation for constituents, thereby enabling parliament to serve the community with increased effectiveness and efficiency.
- Making parliament 'autonomous' involves the legal assumption by it of considerable financial and administrative responsibilities presently the responsibility of the executive government.
- While autonomy means that parliament gains legal powers to ensure it has the resources to achieve its 'core' function goals, sensitivity to the political economy of the country and cooperation with the executive especially in identifying the level of resources required will remain vital in pursuit of overall excellence in governance and public confidence.
- Autonomy flourishes in a parliamentary culture of high ethical standards, budgetary restraint, transparency, and accountability. Embedding these fully within parliament's procedures and practices is essential, and may take time.
- The day-to-day impact of autonomy falls on the official parliamentary administration. The office will require to be suitably and professionally resourced, in particular for its financial functions. To that end parliament must ensure a well- structured and justifiable resource plan for the office.
- Under an autonomous regime, it is essential that parliament is able to face external scrutiny of its stewardship of public funds. To meet this challenge, parliament requires a strategy of adopting codes and practices based on rigorous accountability and transparency principles.
- Finally, autonomy is welcome insofar as it provides citizens with a parliament better able to discharge its constitutional duties, hold the executive government accountable, and contribute to good national governance. By succeeding in taking a fuller hold of its strategic direction in this way, parliament will demonstrate its maturity and take an important step towards meeting the general expectations of a socially relevant and modern legislature.

APPENDIX V
SUBMISSIONS OF STAKEHOLDERS

- a) University of the Southern Caribbean
- b) Public Service Commission;
- c) Office of the Chief Personnel Officer;
- d) Trinidad and Tobago Chamber of Commerce and Industry;
- e) Employers' Consultative Association of Trinidad and Tobago;
- f) Ministry of Local Government;
- g) Constitutional Affairs and Parliamentary Studies Unit, UWI;
- h) Ministry of Public Utilities;
- i) Office of the Auditor General;
- j) Office of the Prime Minister;
- k) Staff of the Office of the Parliament;
- l) Ms. R. Glasgow (member of the public);

Comments on the Legislative Proposal on Parliament Autonomy

Indeed the principle of the separation of powers constitutionally sets the Parliament apart from the Executive and the Judiciary. This structure implies 'autonomy'. The legislature in our jurisdiction however, still leans towards the 'winner takes all' majoritarian model. Hopefully, the proposed bill for parliamentary autonomy will evolve into the more normative mode of consensus democracy. I say this reservedly; for although conventional wisdom concedes that consensus democracy may provide more accurate representation and, in particular, better minority representation and protection of a wider range of interest groups, the government's constitutional reform agenda does not suggest urgency in that direction. I am alluding to the position of a larger senate which would cater to this ideal of wider stakeholder representation within the Parliament.

The Parliament Service Authority is a progressive step. No doubt, the intention is to move the institution into the realm of functional autonomy. Such autonomy should have three areas of focus: institutional, administrative and financial. Institutional autonomy will empower the Board to determine its range of functions, its form of organization and procedures, elect its own committees and decide on its own rules. This will usually be in alignment with constitutional law.

Administrative autonomy may involve the designing of job descriptions, the drawing up and application of procedural protocols and arbitration over internal organization and functioning, including staffing and training.

Financial autonomy will be manifested by the authority of the corporate body to adjudicate on remuneration for parliamentary members as well as professional and ancillary staff. Importantly, a pervading assumption is that the emoluments and pension arrangements for members of Parliament must serve as critical material guarantees against corrupt tendencies. As well, financial autonomy will have to address the issue of the adequacy of plant, capital equipment, library and internet facilities, as well as the physical premises that comprise the parliamentary estate.

Two pertinent issues will no doubt stimulate discussion as the framework of the authority emerges. Will autonomy preclude cooperation with Government or will it preclude Cabinet dominance? To what extent will the proposed composition of the corporate board with party representatives, negate the assumption of non-partisanship? Based on these queries I would recommend that appointment of officers to the authority be made via a recruitment process administered by the Service Commission with the corporate board ratifying the recommendations.

The critical functions of the Parliament are to legislate laws and perform a scrutinizing oversight role in monitoring the government's stewardship. I am optimistic that our politics has evolved to the level where the legislative agenda can have a national development focus rather than an ad hoc, reactionary posture. In this light, parliamentary autonomy can be designed to facilitate participatory democracy.

Appointed officers would include graduates, carefully selected from relevant disciplines. They would function as internal lobbyists, networking and interfacing with various constituents and stakeholders, researching evidence from other jurisdictions, provide expert information on trends and developments within particular fields and help focus the public's attention on important issues. This would allow for a filtering of ideas, for critical trade-offs between stakeholders (parties, interest groups, constituents) in arriving at consensual positions re important legislation. Indeed this is the hallmark of participatory democracy.

A parliament with full autonomy and working in alliance with expert staff can actually work collaboratively in setting the legislative agenda, guided by a long range development plan.

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Instructor, University of the Southern Caribbean

(23)



PUBLIC SERVICE COMMISSION

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19th January, 2015

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



Dear Ms. La Roche,

Re: Joint Select Committee – Pre-Policy paper on Parliamentary Autonomy – Call for Submissions

Reference is made to your letter dated 17th December, 2014 together with the attached pre-policy document.

The Commission has perused the pre-policy paper entitled "Towards an Independent Parliament – Ensuring Parliament's Functional Autonomy."

It is noted that paragraph 11 of the policy paper states that '*independence or autonomy includes the Parliament's ability independent of government to: appoint its staff...*'

The Commission wishes to reiterate the concerns raised in our letter of June 4th 2014, namely, the removal of the jurisdiction of the Public Service Commission over a significant number of public officers appointed to Parliament. Those officers would now fall under the purview of the Clerk of the House.

As a constitutionally appointed commission vested with an inherent duty *'to insulate members of the Civil Service... from political influence exercised directly upon them by the government of the day'* (as per *Endell Thomas v the Attorney General*), the Commission emphasizes that any proposed transfer of public officers to the Authority should be made subject to consultation with the Public Service Commission.

Please be guided accordingly.



.....

Marjorie Thorpe Ph.D.
Chairman
Public Service Commission

Comments of the Chief Personnel Officer

on the

Pre-policy Paper entitled, "Towards an Independent Parliament – Ensuring Parliament's Autonomy."

In previous comments submitted by electronic mail dated July 18, 2014 on the legislative proposal entitled, "The Draft Houses of Parliament Service Authority Bill, 2014," the Chief Personnel Officer provided comments only on those Sections of the Bill which fell within her purview. Since the pre-policy paper on which comments have now been invited, outlines the philosophy and the rationale underpinning the legislative proposal, the instant comments of the Chief Personnel Officer are wider in scope than the previous ones and are focused on those aspects of the policy position which it is felt may be enhanced. The comments are provided under the three rubrics below.

Parliamentary Reform

2. In the pre-policy paper, the case is made that reform of parliament is long overdue. What is not made clear, however, is how the absence of reform has negatively impacted the functioning of parliament. The case for reform would be made much stronger if it were supported by examples of such a negative impact.

3. In support of the case for reform of parliament, the statement is made that, "parliament is a completely separate arm of the state fully equal to the judiciary and the executive." While it is true that the Constitution provides for the separation of powers, it is also true that each of the major arms of government, the legislature, the judiciary and the executive are interdependent. In the case of the legislature, many of its members are also members of the executive. So that what should be emphasised

is not the complete separation of the parliament from other arms of the state, since such separation is not possible, but functional autonomy of parliament, that is, sufficient autonomy to enable it to effectively perform the functions envisaged for it in the Constitution.

Independence for parliament

4. The central argument of the pre-policy paper is that parliament needs to be made functionally independent of the government. In the paper, functional independence or autonomy is described in terms of the ability of parliament to appoint its staff, determine the financial resources it requires and decide on its internal governance. Theoretically, the definition is not inaccurate. Nevertheless, it would seem that in practice a number of different types of arrangements have evolved within states for the exercise of functional autonomy by parliament. (These arrangements have arisen in light of the interdependence of the various arms of government on each other in general, and given the dependence in particular, of parliaments worldwide on executive bodies for funding.) Thus, it may be more appropriate for the discussion to be focused on what is to be achieved by the functional autonomy of parliament and consequently what are the most appropriate vehicles for the achievement of the functional autonomy of parliament in Trinidad and Tobago.

5. For example, it is noted that in order to provide for the independence of the Judiciary, in so far as the appointments of judicial officers are concerned, the Constitution established an independent body, the Judicial and Legal Service Commission. The question arises as to whether in the search to enhance the autonomy of parliament, such an option was considered, and if it was, what were the reasons why it was not adopted.

6. Additionally, the Constitution makes provision for the impartiality of public officers by establishing a Public Service Commission responsible for their appointment, promotion, secondment, discipline and termination. Given that the Board proposed to run the Parliament Service Authority is to include elected officials, the question arises as to whether the proposal runs counter to the principle of impartiality established under the Constitution.

General

7. In general, the policy position would be enhanced if the objectives to be achieved by the legislative proposal for the functional autonomy of parliament were more clearly stated and if it included, as well, an indication as to which of the objectives could not be achieved under the existing arrangements.

8. The policy position would also be strengthened if reference were made to an analysis of the various arrangements established for the functional autonomy of parliament in other jurisdictions. Such an analysis would provide information on whether it is the norm for state legislatures to possess legal personality and on the extent to which the executive controls the finances of these legislatures or exercises any control on any aspect of the work of these bodies. The analysis would also provide insight into how the characteristics of the national jurisdiction were taken into account in the drafting of the provisions of "The Draft Houses of Parliament Service Authority Bill, 2014."

9. Finally, given parliament's strategic intent in the pre-policy papers to "test every aspect of its work including, oversight of government, legislative processes, representation of the people, and its capacity to run itself and where found wanting, to initiate reform," any policy developed should make provision for effective performance measurement and management of parliament as well as oversight of any autonomous body, if any, to be established.

Personnel Department

January 22, 2015

January 20, 2015

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

Dear Sir/Madam

Joint Select Committee – Legislative Proposal on Parliamentary Autonomy

We refer to your dated December 17, 2014, Ref; PARL: 14/3/38 Vol. II requesting comments on the Joint Select Committee's approved pre-policy paper entitled "Towards an Independent Parliament – Ensuring Parliament's Functional Autonomy".

We have reviewed the pre-policy paper and our comments are as follows:

Parliamentary Reform:

- Para 2: This is substantially correct.
- Para 3: This is substantially correct.
- Para 4: The "will of the people being heard" does not depend on Parliament being an independent arm of the state, but on the electoral system which is in many ways deficient, but is not the subject of this report.
- Para 5: The passage of "sound and well-considered laws" depends also on the electoral system, the political system, the quality of persons elected and selected for the Senate, which is also often deficient and how the systems are interpreted and used, not on the structure of Parliament itself.
- Para 6: Sounds good but in fact every citizen is not encouraged to take part in the Debates in Parliament. They can listen and comment in the press or on blogs, but not in the Parliament itself.
- Para 7: Unless we have details of the Strategic Plan, how are we to know whether it will enable Parliament to fulfil its "constitutional mandate"?
- Para 8: Exactly where in the Constitution does it give the STAFF of Parliament the right to carry out "oversight of government"? Parliamentary staff is not elected and if they are to be appointed, it must be by a Parliamentary Commission of the stature of the Judicial and Legal Services Commission.

Secretary to the Joint Select Committee on
the Legislative Proposal
Office of the Parliament for Trinidad and Tobago

January 20, 2015

Para 9: How about the appointment of the President of the Senate? There are some real questions there, including competency, favouritism etc.

Para 10: Giving some rational reasons for this statement would help.

Independence for Parliament:

Para 11: The current staff is mainly conscientious and well trained. How will such appointments under the proposed new system be made free from interference or favouritism or the appallingly slow processes of the CPO's outfit which is unproductive, understaffed and unaware of market forces? If it is to determine the financial resources it requires does it assume that these will be automatically granted by the Ministry of Finance? The Judiciary doesn't have that power now. How will the functioning of Parliament make its requests any different?

Paras.12-19: We have actually no objection to the proposals presented here as long as the Parliament functions under an independent Commission, but to have such a Commission (Houses of Parliament Services Authority) managed by a Board made up of its own members is not sufficient. We all remember when both Houses voted in favour of substantially increasing their own salaries and other emoluments last year until a public outcry forced a withdrawal. We need to militate against such occurrences. The Board should include independent, non involved professionals with no direct interests as well. Even the Judiciary has to answer to the JLSC.... who will guard to guards or watch the watchdogs of Parliament?

We hope that the foregoing has been helpful and constructive.

Yours sincerely
Trinidad and Tobago Chamber of Industry and Commerce


Catherine Kumar
Chief Executive Officer

CK/ss



EMPLOYERS' CONSULTATIVE ASSOCIATION
OF TRINIDAD AND TOBAGO

Our Ref.: Corr. 24/2015
LMB/AJ

January 20, 2015

Secretary to the Joint Select Committee
on the Legislative Proposal
Office of the Parliament of Trinidad & Tobago
Level 3, Tower D
International Waterfront Centre
1A Wrightson Road
PORT OF SPAIN

Dear Sir/Madam

Re: Joint Select Committee – Legislative Proposal on Parliamentary Autonomy

The Employers' Consultative Association of Trinidad and Tobago (ECA) acknowledges and thanks you for your invitation regarding the above-captioned.

In this regard, the ECA is pleased to submit its views on the Legislative Proposal on Parliamentary Autonomy.

We trust that our submission will influence and/or guide the final document.

Yours sincerely
EMPLOYERS' CONSULTATIVE ASSOCIATION OF
TRINIDAD AND TOBAGO

Linda M. Besson
EXECUTIVE DIRECTOR

Enclosure

Mr. Samson Hoob
Assistant Secretary
Ministry of Labour
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EMPLOYERS' CONSULTATIVE ASSOCIATION OF TRINIDAD & TOBAGO

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PRE-POLICY TOWARDS AN INDEPENDENT PARLIAMENT ENSURING PARLIAMENT'S FUNCTIONAL AUTONOMY

The Employers Consultative Association of Trinidad and Tobago (ECA) is extremely heartened by the level of foresight and commitment being shown with this Legislative Proposal designed primarily to re-engineer and transform the way the Parliament of Trinidad and Tobago conducts the affairs of Parliament in a world that is crying out for greater levels of commitment to the practice and ideals of good corporate governance. It should also be noted that Trinidad and Tobago functions as a unitary state and is regulated by the parliamentary democracy modelled on that of Great Britain and Northern Ireland from which the country gained its independence in 1962.

While the ECA agrees that parliamentary reform is long overdue, this proposal has come at a time where there is an urgent need not only to transform the way Parliament conducts its business but, more importantly, the way the wider Public Service delivers services to its various publics.

To reinforce the case that is being made out in the proposal, Parliament is a completely separate arm of the State fully equal to the Judiciary and the Executive. The history of the Parliament of the United Kingdom of Great Britain and North Ireland, commonly known as the UK Parliament is the highest legislative authority and its main responsibilities are examining and challenging the work of the government and debating and passing all laws. In light of this, Parliamentary Reform must not be seen as a reorganisation of the government under a new title but a transparent and independent arm seen at the highest level.

The Legislative Proposal - Houses of Parliament Services Authority Bill, 2014, is one model for seeking to achieve efficient and autonomous management and administration of the Parliament of Trinidad and Tobago. However, while we applaud the effort to transform, we do have some serious concerns relative to the following:

1. The recommended composition of the Board in its present form is asking parliamentarians to govern themselves. This is clearly not in alignment with the autonomy and Independence that the proposal is seeking to achieve. The ECA wishes to recommend that a multi-partite approach should be used to select the Board.



2. We would like to see the recommended structure and the methodology for the recruitment and selection of candidates.
3. The proposal should clearly outline the proposed mechanism for the robust monitoring and management of financial resources.
4. There should also be a robust performance Management system which is designed to hold people accountable for delivering on their tasks objectives.

The aforementioned are our initial responses to the Draft proposal and do look forward to an invitation to continue our participation and involvement in such a strategic initiative.

Yours respectfully

Linda M. Besson
EXECUTIVE DIRECTOR

January 20, 2015



MINISTER OF LOCAL GOVERNMENT
Senator the Honourable Marlene Coudray
Government of the Republic of Trinidad and Tobago



19th January 2015

Ms Chantal La Roche
Secretary to the Joint Select Committee
On the Legislative Proposal
Office of the Parliament
Tower D, Levels G-7
Internantional Waterfront Centre
1A Wrightson Road
Port of Spain

Dear Ms La Roche

Re: Call for Submissions

I acknowledge receipt of your correspondence dated 17th December 2014 on the captioned subject.

Please find attached comments on the Legislative Proposal entitled, "The Draft Houses of Parliament Service Authority Bill, 2014" as requested.

Yours Faithfully,

MARLENE COUDRAY
Minister

COMMENTS OF THE MINISTER OF LOCAL GOVERNMENT ON THE DRAFT HOUSES OF PARLIAMENT SERVICE AUTHORITY BILL

Objectives

The legislative proposal which has for short title "The Houses of Parliament Service Authority Act states its objectives at clause five (5) as:

- a) to ensure autonomy of and 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 Parliament Service Authority which shall be managed by a Board for the purposes 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 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.

Comments

1. The spirit and Intent of the Draft Bill to entrust Parliament with the requisite autonomy to promote efficiency is somewhat similar to the legislative provisions for the establishment of National Library and Information System Authority (NALIS) and the Police Complaints Authority. Nevertheless, the Explanatory Notes to the Draft Bill which treats with the "Objects of the Act " does not effectively demonstrate that the current constitutional provisions: do not ensure autonomy of Parliament, or ensure efficiency, or deter Parliament from performing such duties as conferred on it at law.

2. Similarly, the Explanatory Notes which treat with the "Objects of the Act " in nowise demonstrate that the legal framework which provides for employment of personnel in the Parliament of the Republic of Trinidad and Tobago is inimical to fair employment management and leadership.

3. Parts I and III in conjunction with Part V pursuant to clause 7 of the Draft Bill contemplate the establishment of a Body Corporate. While this modality provisions the Authority to achieve the autonomous objectives contemplated at clause 5, it raises concerns that clause at 4 of the Draft Bill may be construed to confer acquisition of land holding on the proposed Authority. Pursuant to the Real Property Ordinance, the non-classification of lands held by the proposed Authority as State Lands may lead to prejudice in terms of rights acquired in adverse possession as there is a thirty (30) year for non-foreshore and a sixty (60) year foreshore element requirement for possessory calculus. Therefore, the Bill should give drafting cognisance to the fifteen year requirement for adverse possessory rights as legislated at section 3 of the Real Property Limitations Act Chapter 56:03. In any event, it is suggested that the drafting of the clause to enable vesting of lands in the proposed Authority be overseen by the Commissioner of State Lands so as to protect assets acquired essentially for state usage.

4. It is advisable that under Part IV of the proposed legislation that more than the base quorum as stipulated at clause 17 should be present for board approvals in circumstances where financial matters are contemplated.

5. Attention is also drawn to part V section 28 (6) which gives the Clerk of the House power to secure constituency office for members of the House of Representatives which can only be nullified by leasing rather than freehold acquisition.

6. Although no mention is made in the Explanatory Notes to the Draft Bill that Constitutional amendment is necessary to legislate Part V of the Draft Bill, it is apparent that the Constitution of the Republic of Trinidad and Tobago Chapter 1:01 must of necessity be amended to incorporate under Chapter 4, Parliament and Chapter 5, Executive Powers, the appointment of the Clerk of the House at section 24(1) and the Clerk of the Senate at Section 33(1).

7. Further, the parts of Clauses 26 and 35 of the Draft Bill which provision disqualification of a person from holding office of Clerk of the House or Clerk of the Senate where the person has a criminal conviction for any indictable or summary offence which carries a term of imprisonment of three (3) months or more seem rather severe. This is submitted, given the fact that under the Motor Vehicle and Road Traffic Act Chapter 48:50 some of the penalties prescribed for a number of traffic offences, which are fundamentally regulatory, involve sentencing maxima of more than three (3) months. In any event, such a clause is regarded as quite harsh in occidental societies. It is therefore arguable that if such a provision should be maintained in the Bill there should at least be a corollary provision for the person to be heard prior to disqualification.

8. Part VIII is incomplete of the Draft Bill vis a vis other pieces of legislation which legislate transfer of public officers out of the Public Service to Corporate bodies. Clause 44 permits the transfer of temporary holders of Public offices. While the Constitution gives the Public Service Commission exclusive authority to transfer a permanent holder of a public office out of the Public Service no such parallel authority is expressly given to transfer out of the Public service a temporary holder of office in the Public Service.

9. Further, pieces of legislation, in particular the Telecommunications Act 2001, are more definitive than clause 44 of the Draft Bill in treatment of pensionable terms and conditions of service of a transferee out of the Public Service to the proposed authority. Clause 44 states that the superannuation benefits which have accrued to a person who exercises the option under sub-clause (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. Neither, this clause nor the Pensions Act makes specific provision for the transferred person to be paid pension at the rate of salary applicable at the date of retirement from the proposed authority.

10. Moreover, the transfer provision at clause 44 appears to be incomplete as it makes no provision for persons holding offices in statutory authorities to be eligible for transfer to the proposed authority. It is noted that such enabling provision is incorporated in almost all legislation establishing corporate bodies similar to the proposed Authority. It is submitted that the Draft bill be amended to include such a clause in the Bill. It is therefore submitted that the relevant part of clause 44 be amended as follows:

Subject to the Authority, the appropriate Service Commission and with the consent of the officer, an officer in the Public Service or a Statutory Authority may be transferred to the service of the Authority on terms and conditions no less favourable than those enjoyed by the officer in the Public Service or statutory authority, as the case may be.



THE UNIVERSITY OF THE WEST INDIES

ST. AUGUSTINE, TRINIDAD AND TOBAGO, WEST INDIES

FACULTY OF SOCIAL SCIENCES

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CONSTITUTIONAL AFFAIRS AND PARLIAMENTARY STUDIES UNIT

20th January, 2015

Ms. Chantal La Roche,
Secretary to the Joint Select Committee on the Legislative Proposal,
Office of the Parliament of Trinidad and Tobago,
Level 3, Tower D,
International Waterfront Centre,
1A Wrightson Road,
Port-of-Spain

Dear Madam,

I am writing to you at this time to submit the comments of the Constitutional Affairs and Parliamentary Studies Unit of the Faculty of Social Sciences at the University of the West Indies, St. Augustine Campus, on the pre-policy paper entitled "Towards An Independent Parliament – Ensuring Parliament's Functional Autonomy".

The submission is as follows :

1. The intentions of the legislative proposal are noble insofar as they are designed to permit a level of autonomy that does not now exist within the Parliament.
2. In seeking this autonomy, there must be recourse to the political reality established for Parliament by the Constitution which essentially provides for the Executive to dominate the Legislature as is customary in all Westminster-Whitehall constitutional models.
3. The particular sections of our Constitution that secure this dominance may be gleaned from the following – (A) Section 67(1) states that "Each session of Parliament shall be held at such place within Trinidad and Tobago and shall commence at such time as the President may by Proclamation appoint." (B) Section 68(1) states that "The President, acting in accordance with the advice of the Prime Minister, may at any time prorogue or dissolve Parliament." (C) Section 63(2) states that "Except on the recommendation or with the consent of the Cabinet neither House shall- (a) proceed upon any Bill, including any amendment to a Bill, which in the opinion of the person presiding, makes provision for any of the following purposes : (i) for imposing or increasing any tax, (ii) for imposing or increasing any charge on the revenues or other funds of Trinidad and Tobago or for altering any such charge otherwise than by reducing it; or (iii) for compounding or remitting any debt due to Trinidad and Tobago; (b) proceed upon any motion, the effect of which, in the opinion of the person presiding, would be to make

provision for any of the purposes aforesaid; or (c) receive any petition which, in the opinion of the person presiding, requests that provisions be made for any of the purposes aforesaid."

4. The sittings of either House are largely determined by a majority of the members of either House upon a vote on a motion seeking to fix a date for the next sitting of each House. These majorities are largely secured by the Government side of the House.
5. The key issue appears to be a proposed separation from the jurisdiction of the Public Service Commission and the establishment of an independent non-partisan Houses of Parliament Service Authority. This Authority, according to the pre-policy paper, will be "managed by a Board comprising Members of Parliament representative of the Government, the Opposition and the Independent Senate bench, and chaired by the Speaker."
6. This is a laudable goal, however, two pertinent points arise here. One is the issue of whether the Government will hold a majority on the Board, or whether the independent Senators will hold the balance of power on the Board. The second issue is the absence of any senior parliamentary staff member as a staff representative on the Board.
7. Provision will need to be made for the revocation of the appointment of any Senators who are members of the Board as well as the possible resignation of any Members of Parliament who may be members of the Board. A swift process of replacement will be necessary. Additionally, the appointment of any temporary Senator pending the absence or illness of any Senator who is also a Board member must be considered.
8. The Board will also have to undertake the responsibility for appointment, promotion, transfer and discipline that would ordinarily have been performed by the Public Service Commission.
9. The issues of remuneration of parliamentary staff in negotiation with a representative union must be considered.
10. Permanent parliamentary staff currently appointed under the jurisdiction of the Public Service Commission ought to be offered the option to retain their service and benefits or to terminate such service and benefits and assume duties under a contract arrangement. This is an important dimension of the transition process.
11. Provision ought to be made for the protection of the contracts of those employees of the Parliament if there is any change of Government. In moving to adopt an autonomous identity, the Board must exercise care in how it handles this matter because the MPs and Senators will all vacate their positions at the dissolution of Parliament, however, the Speaker will remain in office until such time as the next Parliament assembles after the general election.
12. The new Speaker with a new Board or the previous Speaker (if re-elected) with a new Board may wish to review all contracts based on a new political dispensation. This issue will be extremely sensitive as there are some contract positions that may change and others that do not have to change.

13. The protection of the contracts of parliamentary staff in a transition from one Parliament to another makes it imperative to have a staff representative on the Board to allow some measure of consistency and protection. However, those positions that may, of necessity, have to change must have it made clear that the positions are not protected and are subject to change on the basis of the swing of the political pendulum. Navigating this aspect of the proposal will require extreme care.
14. The issue of a representative union will arise for those members of parliamentary staff who are permanent employees in the Government service. Arrangements ought to be made to consider the welfare of those who are permanent and those who will assume duties alongside the permanent employees while being on contract.
15. Another issue that ought to be considered is the reality that the majority of parliamentary staff are female and the majority of parliamentarians are male. This gender dichotomy ought to be considered in respect of maternity leave replacements and any possible sexual harassment issues in the parliamentary environment that may arise.
16. The reclassification of exiting positions or classification of new positions must be reviewed as part of the intended shift to this more autonomous approach to conducting the affairs of the Parliament in an autonomous manner.
17. Given the erratic time schedules for the holding of parliamentary sittings, it is important to ensure that parliamentary staff are provided with a health plan that is peculiar to their needs. Sleep deprivation, aggravation of existing illnesses, stress, and other workplace-related illnesses ought to be covered in a reasonable manner given the very specialized nature of working as a member of the parliamentary staff.
18. The proposed Board should ensure that appropriate training is guaranteed to all members of parliamentary staff to assure that they are able to perform their duties effectively and efficiently. At the same time, such training should ensure that they are made aware of the latest developments in other Commonwealth Parliaments that are pertinent to their own duties.

Respectfully submitted,



Hamid Ghany (Dr.)
Senior Lecturer and Coordinator



The Honourable Nizam Baksh
MINISTER OF PUBLIC UTILITIES

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MPU 2/2/35
NB/kr&kg

January 20, 2015

Secretary to the Joint Select Committee on the Legislative Proposal
Office of the Parliament of Trinidad and Tobago

Level 3, Tower D
International Waterfront Centre
1A Wrightson Road
PORT OF SPAIN

Dear Ms. La Roche,

Re: Submission on the Pre-policy Paper entitled, "Towards an Independent Parliament – Ensuring Parliament's Functional Autonomy"

Reference is made to the matter at caption and to your letter dated December 17, 2014.

I have reviewed the pre-policy paper and while I am in agreement with the contents therein I have noted the following issues for consideration with a view to inclusion in the substantive policy:

- a) **Provision for succession planning.** As noted at paragraph 18, the policy seeks to dismantle and replace "the existing public service model with an independent non-partisan body corporate". The Policy ought to go further into a discussion of the intended treatment of present public servants staff during the transitional stage. It is thus recommended that a new sub-heading be inserted into the policy to treat with the issue of succession planning, particularly with respect to any potential practical issues that may arise in administering same.
- b) **Accountability.** The Policy highlights at paragraph 11 the important elements of the independence of Parliament (its ability to appoint its staff, determine the financial resources it requires and decide its internal governance). In this

regard, the functions and powers of the Clerk of the House have been expanded to include the management of the affairs of the Authority, the deployment of resources and the preparation of Parliament's annual accounts. The Policy should include the provisions which will be made to maintain accountability.

- c) **Public understanding.** In moving forward towards Parliamentary autonomy, it is important that there is public understanding. This can be achieved in two ways: 1. the sensitization of the public of the existing role of Parliament, the role as stated in the Constitution and the importance of the transition towards parliamentary autonomy; and 2. their participation in community and stakeholder-based consultation. These methods ought to be set out in the policy as well as a timeframe in which they are to occur.
- d) **Consequential Amendments.** Legislation has been developed on the basis of the present inter-relationship between the Parliament and the Executive. Therefore, as the change towards parliamentary autonomy takes place, so too must amendments to other legislation be contemplated. A brief outline of legislation in which amendments are suggested is set out below:
- *The Constitution* ought to make provision for this new expanded role of the Office of the Clerk of the House, setting out clearly his functions and powers.
 - *House of Representative Standing Orders* which, at present, assigns duties to the Clerk of the House. It is advised that this be revisited, bearing in mind the new functions of the Office.
 - *Exchequer and Audit Act Chap. 69:01* should be reviewed to ensure that no conflict exists, particularly considering Parliament's pursuit for financial independence.
 - *Freedom of Information Act Chap. 22:02* should be amended to include the role of the Clerk of the House, particularly at section 4 of the Act where "responsible Minister" is defined.

While, there exists the concern that separation of powers may remain an ideal more than a reality, it remains an ideal worth pursuit to ensure that parliamentarians are able to carry out their legislative and constitutional functions, free from unlawful interference. The goal of Parliament towards maturity and institutionalization of the legislature is a step in the right direction. It would be remiss of me not to support same. Parliamentary autonomy is an important element in upholding the principles of separation of powers enshrined in the Constitution. As we move

towards this transition, it must be ensured that the Office of the Parliament maintain high standards of accountability, transparency and responsibility in the conduct of all public and parliamentary matters. It is also imperative to encourage public understanding and participation in this process. I am of the view, therefore, that the ideals stated in the policy show movement in the right direction, however, the policy requires further development in the aforementioned areas in order to truly guide the legislative proposal.

It is my sincere hope that this provides assistance in the endeavour to move forward with the implementation of the Strategic Plan of the Parliament of Trinidad and Tobago.

Yours faithfully,


Nizam Baksh
Minister of Public Utilities

January 20, 2015

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

Dear Madam,

The Office of the Auditor General stands by its comments on the subject of June 3, 2014.

The Office has no additional comments at this time other than to say that we fully endorse the principles, reasoning and justifications for the legislative proposal set out in the pre-policy paper submitted.

The Office also hereby indicates its non-objection to the content of the pre-policy paper.

Regards,

Majeed Ali

Acting Auditor General

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OFFICE OF THE PRIME MINISTER COMMENTS ON THE “PRE-POLICY TOWARDS AN INDEPENDENT PARLIAMENT – ENSURING PARLIAMENT’S FUNCTIONAL AUTONOMY”

OFFICE OF THE PRIME MINISTER COMMENTS

1. The Office of the Prime Minister has reviewed the proposed pre-policy towards an Independent Parliament; and submits the under-mentioned comments:

2. GENERAL COMMENTS

Capitalize throughout the document the following nouns:

- Parliament;
- Executive;
- Judiciary;
- Heads of Government and
- Legislative.

Parliamentary Reform

(Page 2, Item 1 and 2)

- (i) The items should be joined to give flow and direction to the pre-policy document.
- (ii) “Nor” should not be used without “neither”
- (iii) Capitalise government at “the Government”
- (iv) Delete “does” at the end of item two (2).

(Page 2, Item 4)

- (i) Clarification is sought on the statement, “...*the voice of the people can be heard and its will done.*”
- (ii) It is recommended that “***Parliament represents the democratic centre and is the highest forum for national debate***” be used in place of, “*It is the focus of national debate and the democratic centre of our country.*”

(Page 3, Item 6)

- (i) Item six (6) is redundant and can be merged into item four (4).

A Strategic Approach

(Page 3, Item 7)

- (i) It recommended that the use of the word "*exciting*" be removed and "*innovative*" be used in place of.
- (ii) It is recommended that the use of similar words at, "...so that is fully able to fulfil its constitutional mandate" be revised.

(Page 3, Item 8)

- (i) Recommended use of the word "manage" in place of "run."
- (ii) Recommendation that "*where found wanting, to initiate reform*" be changed to "*initiate reform where necessary.*"

(Page 3, Item 9)

- (i) Clarification is need for the first sentence, "*A start to reform has been made.*"
- (ii) Consider "*Last year, important Committees were established*" in place of "*Last year important new Committees were set up,*"
- (iii) A semi-colon should be used after "*important committees were established*" to signify the list of committees set up.
- (iv) Delete "*created*" as it is redundant. The creation of committees is already understood at the beginning of the sentence.

(Page 3, Item 10)

- (i) Recommended use of "*However, more needs to be done*" in place of "*But much, much more needs to be done*"
- (ii) Capitalize Government

Independence for Parliament

(Page 3, Item 11)

- (i) Clarification is sought on the use of “bold” format applied to item eleven (11).
- (ii) Remove the comma in the sentence “...*independent of **government, to:***”

(Page 4, Item 12)

- (i) Consider removing the question “Why does this matter?” in this formal policy document. It does not conform to the guidelines for formal policy document structure.

(Page 4, Item 13)

- (i) Reconsider the format used at, “*The reason it matters is that without these “core” freedoms parliament is too much with the control of the government...*” Answering a question placed in the formal policy document (item twelve (12) is not standard.
- (ii) Clarification is needed on who is held accountable in the section “...*parliament was set up to oversee and hold accountable*”.
- (iii) Consider the use of “**Government maintains strict control over Parliament**” in place of “*Parliament is too much within the control of government*”
- (iv) Remove “fully”
- (v) Reconsider use of “nor” without “neither”
- (vi) Recommendation that the use of “we” be reconsidered.

(Page 4, Item 14)

- (i) Capitalize Heads of Government
- (ii) The reference made to the “Latimer House of Guidelines” should be dated.

(Page 4, Item 15)

- (i) Clarification is sought at, “...*has stressed the importance of the “core” **freedoms above** to fulfilling those basic legislative and oversight functions.*”

- (ii) Recommendation is made to restructure the sentence, *"The time is long overdue, in our opinion, for their implementation in the Parliament of Trinidad and Tobago"* to a more suitable standard for a formal policy document.
- (iii) Clarification is sought, "...for their implementation..." on item fifteen.

(Page 5, Item 16)

- (i) Clarification is sought on the use of "bold" font at this item.
- (ii) Clarification is sought on, "It is our aspiration that the parliament..."Reconsider the use of such personal pronouns in a formal policy document.

Consultation

(Page 5, Item 18)

- (iii) The use of "CPA" should only be used if referenced at another part of the document prior to its abbreviation. "CPA" can be put into parentheses in item fifteen (15) after, *"...Commonwealth Parliamentary Association."*

--END--

Compilation of Staff Submissions on Parliamentary Autonomy

- (1) Will there be an automatic transfer of Officers appointed (permanent) to the Office of the Parliament if the Officer desires to transfer to the Authority or will the Officer have to apply for a position to which he/she is suitably qualified, be interviewed and if successful he/she can transfer to the Authority?
- (2) What will happen to those Officers who presently hold temporary clerical positions if there is no office available in the Public Service commensurate with the office he/she presently hold?
- (3) What will happen to those Officers who are presently appointed (permanent) in the **clerical stream** if there is no office available in the Public Service commensurate with the office he/she presently hold?
- (4) Would the option of secondment be automatic to an Officer who is interested in retaining the office he/she presently holds or would that Officer have to be interviewed for his/her current position and if successful move to the option of secondment?
- (5) Would the appointed (permanent) Public Service Staff of the Office of the Parliament be automatically retained as permanent staff of the Authority in their existing positions?
- (6) What would happen to contract staff who would be within a contract period when the Authority is established?
- (7) What would happen to contract staff who does not have a contract **in hand** but was assured a three year tenure when the Authority is established?
- (8) What would happen to appointed (permanent) Officers in non-clerical positions who desire placement within the wider public service but there is no office available commensurate with the office he/she presently hold?
- (9) Would contracts be honored by the Board if the Board dissolves before five (5) years?
- (10) In order for utmost transparency and fairness who would comprise the members of the disciplinary tribunal?
- (11) What would be the options for Officers appointed (permanent) to the Office of the Parliament but holding an acting appointment **outside** of the Parliament when the Authority is established?

- (12) What would be the options for Officers appointed (permanent) to the Office of the Parliament but is on secondment **outside** of the Parliament when the Authority is established?
- (13) Would Officers appointed (permanent) to the Office of the Parliament who have already utilized their secondment options at another Organization/Ministry be considered for another secondment period when the Authority is established?
- (14) What would be the options for Officers appointed (permanent) to the Office of the Parliament but has proceeded on study leave when the Authority is established?
- (15) What would be the options for Officers appointed (permanent) to the Office of the Parliament but has proceeded on no pay leave when the Authority is established?
- (16) Would the same positions presently existing in the Office of the Parliament be retained when the Authority is established?
- (17) How soon after the Authority is established would Staff changes be effected?
- (18) How much notice re: changes, will Staff be given when the Authority is established?
- (19) When the Autonomy will be coming into place?
- (20) How will it affect staff especially the Public Servants?
- (21) Will we be offered contracts?
- (22) If I decide to take contract, what about my years of Service as a Public Servant.
- (23) It appears from information in the public domain through the electronic and print media that the Service Authority is carded to be in place before the Tenth Parliament is dissolved later this year. Options for continued employment for Permanent Public Officers should already have been agreed upon and should have been given to Public Officers for their perusal and consideration.
- (24) A general staff meeting – not only individual Unit meetings – should have been held to avoid the pockets of conversations taking place, which conversations may or may not be on point with what is proposed in the Draft Bill.
- (25) Currently the Unions representing Public Officers attached to the Parliament are the Public Services Association (monthly-paid) and the National Union of Government and Federated Workers (daily-paid). Have there been meetings with the JSC and

these representative Unions? If not, why not yet? Are such meetings being planned? Would Public Officers have staff representation at such meetings?

- (26) Likewise, have there been meetings with other key stakeholders to ensure a smooth transition to the Service Authority, to wit, the Chief Personnel Officer, the Service Commissions Department, Ministry of Public Administration, Ministry of Finance and the Economy (Pensions Division), among others.
- (27) Are Draft Regulations available yet for perusal and consideration of staff, along with feedback from staff for amendment if required? The Draft Regulations should be considered at the same time as the Draft Bill and not come after.
- (28) Is the Employee Assistance Programme provider to be retained?
- (29) A judicial review process should be outlined and provided for aggrieved employees who want to be part of the Service Authority and who may not be retained by the Service Authority for whatever reason.
- (30) VSEP is not mentioned in the Draft Service Authority Bill. This **MUST** be included.
- (31) The duties of the Accounting Officer, the Clerk of the House, and the Clerk of the Senate are outlined in the Draft Bill. Are duties of the positions for persons to be employed by the Service Authority being worked on? If yes, can such be made available to staff for perusal? If not, when would such be available to staff?
- (32) It is envisaged that there will still be Contract Positions on the establishment of the Service Authority, are terms and conditions for any such Contract Positions being worked on? If not, when will this be done? When will staff be informed of such Contract Positions and terms and conditions of same?
- (33) There should be no loss of pension and gratuity benefits to Permanent Public Officers who are integrated into the Service Authority. Actually, enhanced benefits should be considered to ensure that institutional memory and experience are maintained through the transitional phase (which we will have) by the retention of key personnel in key positions.
- (34) Permanent Public Officers attached to the Parliament, now on contract, are positions to be created vice their public service positions and are they to be placed in those new positions with the Service Authority? Will such persons be given the option to retire/resign before taking up a position with the Service Authority, if so offered?
- (35) Temporary Public Officers should be apprised of their options for employment in the wider Public Service or the Service Authority.

- (36) Persons strictly on contract currently with the Parliament, will they be offered Service Authority contract positions, be immediately terminated or terminated on completion of their contract?
- (37) I strongly suggest the creation of a Policy Guidelines and Procedures Manual, similar to the one produced by NALIS. The Manual is attached for ease of reference.
- (38) Would there be additional contract positions or would the current name of positions remain e.g. BOA.
- (39) What happens to contract employees, would their contract be terminated or would the person be given a new contract after a year or two?
- (40) Would Parliament buy out the remaining period of the person contract if someone does not want to continue with the Parliament Authority and still has time in the contract?
- (41) What are his options?
- (42) What would be the position of persons holding acting appointments in the Office of the Parliament?
- (43) Will there be a transition period for Public Officers before they return to their Ministry?
- (44) If Public Officers are interested in staying with the Office of the Parliament, will there be options available to them?
- (45) As a temporary officer in the Public Service, are we going to be sent back to Service Commissions or offered a VSEP and terminated from the Public Service?
- (46) Would a VSEP package be offered to employees
- (47) What will be the process of handing over our schedules?
- (48) Would we the public officers be give the first preference of staying at the positions that we are presently employed? And if we refuse the offer of employment how are we going to train the persons that will be coming to fill the positions?
- (49) If I am acting in an office here and decides to remain in the Authority, would I then get a substantive appointment in that office?

- (50) My question is for persons who have requested a transfer to a Ministry with offices in South, would they try to facilitate these persons be placed in such Ministries?
- (51) If I'm acting Clerk II in the position here in Parliament and I do not accept the offer of employment in the Authority, would I be given the option of choice to a Ministry closer to my area of residence?
- (52) If I'm acting Clerk II continuous and do not accept the offer of employment in the Authority would I be diverted to my substantive Ministry as a Clerk I or I would go into the acting stream?
- (53) What kind of Pensions arrangements for employees would be implemented for the Parliament Service Authority?
- (54) Will it be a contributory plan whereby the organisation and employees contribute towards this fund or would employees be responsible for their own pension plan?
- (55) Will employees be given an option of flexitime of working hours or the normal working hours of 8:00 a.m. to 4:15 p.m. be applied?
- (56) Will employees be able to continue with their existing collective bargaining bodies (PSA; NUGFW; Police 2nd Division, Social and Welfare Association); or will they be required to become members of an existing Trade Union or form a new one; (Will the environment be unionized)?
- (57) What safe guards will exist to ensure that there will be adherence to proper industrial relations practices for redress or appeal in circumstances where employees believe they have been wronged?
- (58) What system will be in place to ensure job security when government changes (ensure employees safeguard from political interference)?
- (59) What are the terms of engagement (permanent or contract employment)?
- (60) What are the arrangements to continue under the authority?
- (61) What template is being contemplated regarding transfer of service?
- (62) How will eligibility for acting or promotion be determined?
- (63) Will there be an option for persons to remain a public officer within the Parliament structure or all employees will be required to transfer within the new entity?

- (64) If contract employment is being considered what will be the duration of the contract (3 or 5 years)?
- (65) What redress would there be for person who are on a three (3) year contract and the contract has to be terminated due to the new entity coming on stream?
- (66) Will there be a buyout of the remaining contract e.g. will gratuity be paid based on time worked and the employee will be automatically be absorbed into the new body?
- (67) If there is a buy out of the remaining contract, will the employees have to apply as someone for a new position?
- (68) Regarding public officers will a resettlement package be offered to employees who do not express a desire to be absorbed into the authority?

In 2013 new committees were set up, the election of the Speaker streamlines, prime Ministers' Question Time established and provisions for urgent questions created.

Independence for Parliament

The ability of Parliament to:-

- **Appoint its staff**
- **Determine the financial resources it requires, and**
- **Decide on its internal governance**

Why was this important? The contention put forward was that without these 'core' freedoms, parliament was too much under the control of government, which is written in the constitution, where the Parliament was set up to oversee and to hold accountable.

Minister Mark stated that in 2003, Trinidad and Tobago had endorsed that Parliaments have the freedom to fulfill their legislative and constitutional functions ('Latimer House Guidelines'). In 2013, Minister Mark announced his intention to dismantle and replace the existing public service model with an independent non-partisan Houses of Parliament Service Authority. It is a body corporate, which is to be managed by a Board comprising Members of Parliament, representatives of the Government, the Opposition and the Independent Senate bench, and chaired by the Speaker

The different ethnic groups that make up T&T has resulted in the twin island Republic often referred to as a 'plural society.' J.S. Furnivall coined the term describing 'plural society as a society comprising two or more elements of societal order which live side by side, yet without mingling in one political unit. In a plural society, there is no common will except possibly in matters of supreme

importance. In such societies, people hold on to their distinctive beliefs and there is little intermixing across racial line. The different ethnic sections are held together by a political structure superimposed by a colonial power. The plural societies are not based upon common values and they lack consensual basis (Furnivall 1948:446) I (p48) Bissessar

Similarly with constitutional reform, Demas contended that there was a pattern here, as he questioned governments motives. Is this to have greater control over the institutions of the state and by extension an enhancement of personal and political power? Speakers Wade mark haste in pushing this proposal for the Act is of concern to me given, the pattern over the last four years of this government.

Demas (2009,3) suggests that it was about power which derives from occupying office. If you are out of office you want to get there, if you are in office you want to stay there. So you use every strategem, every means, every device—not necessarily short of illegality—to achieve your goal. When this is achieved, you call yourself a “public servant”, not a politician because you want to persuade all and sundry that you are only there to serve them, not exploit them or serve yourself.

In a multiracial multireligious, multicultural society such as in T&T, where politicians divide by using race and religion, while insisting they can bring about unity

Parliamentary effectiveness cannot be satisfactorily treated without confronting issues of power.’ Power has many different meanings, Power as a *capacity*: that is having the relevant legal rights and resources-financial, human and organizational to carry out necessary tasks. Secondly: Power as *relational*: that is having sufficient power and independence in relation to the executive to oversee it effectively (IPU 2006)

Budgetary control

In accordance with the fundamental principle of the separation of powers, the internal budget of parliament should be drawn up under the sole responsibility of the House, and subsequently presented to the executive to be incorporate into the national budget . The Executive is not to judge the appropriateness of the resources requested by parliament to carry out its functions. *(General Report presented by Mr. Lahaou Toure,(Mali), General Rapporteur, Bamako (Mali), 1-3 November 2001)*

In the UK One of the roles of the speaker of the house is he/she must be politically impartial. Therefore, on election the new speaker must resign from their political party and remain separate from political issues. However the speaker will deal with their constituents problems like a normal MP. IPU 2006)

Speakers stand in general elections, they do not campaign on any political issues , but stand as the Speaker seeking re-election. IPU 2006)

In most countries government expenditure is carried out by a Public Accounts Committee, or equivalent body, chaired by a member from anon-governing party so as to enhance its independence.(chk T&T) IN most parliaments financial monitoring are assisted by the office of an independent Auditor General, whose role is to audit all government accounts (IPU 2006)

Parliament and Democracy in the Twenty-First Century: A Guide to Good practice,6. An effective parliament (1): The national level Inter-Parliamentary Union (IPU) (2006)

<http://www.ipu.org/dem-e/guide/guide-6.htm>

The Speaker is elected by all members of the House of commons, the Speaker is a respected senior MP. Once elected , the Speaker ceases to represent any political party

The role of the Speaker. BBC News 18 October 2000

http://news.bbc.co.uk/2/hi/uk_news/politics/978265.stm

A presiding officer is needed in all legislatures to impartially oversee procedures of debate. Most commonly this officer is called the speaker in bicameral parliaments. As the

In T&T and most parliaments the party with the largest numbers of Members will see their candidate elected as Speaker , while some countries follow a system of rotation as new parliaments are elected

Because of the variety of functions Speakers are required to carry out, legislatures are usually assisted by electing (1) Deputy Speaker , or allowing the Speaker to appoint a panel of other MPs who would share the burden of presiding over the House. The officers are chosen from any of the parties in the House and are required to work with the same degree of impartiality expected of the speaker

The clerk or secretary general of the House is usually a permanent non-political official of the House administrator responsible to the speaker for day-to-day work of the institution, advises the Speaker and his deputies , government and opposition

In most commonwealth countries the clerk is an appointee of parliament but he/she is a Member of the public service holding office in Parliament similar to one serving in a Ministry office. Impartiality in one's actions, especially in giving advice to the Speaker and to members, is a particular requirement of the Clerk's

position , and for this reason many countries protect the clerk constitutionally or in other ways

Unit #2The Role of the Speaker of Parliament and other Presiding Officers

<http://www.parliamentarystrengthening.org/commonwealthmodule/pdf/Commonwealth%20Unit%202.pdf>

However , in cases where that has ocured there is evidence that Parliament is better able to assert its independence and ensure adequate resources (both financial and otherwise) are made available . this then enables Parliament to discharge its function more effectively, while at the same time allows Members to exercise appropriate control over the priortization of the delivery of services by the parliamentary service.

Financial control may rest with the Parliament or the executive or there can be a collaborative model where Parliament determines the budget in consultation with the executive. There is afer that when Parliament does not have financial independence , there is the dangerthat the executive will be encouraged to exercise **undue control** over expenditure to the **detriment** of the parliamentary process

Adminsitrative autinomy is about self-determination regarding the nature and level of services to be provided to Parliament . The UK and other commonwealth countries support the view that administrative independence and accountability is best achieved through the establishment of parliamentary corporate bodies

This has been established in the Scottish parliament and Northern Ireland and recommendation for the National Assembly of Wales Assembly. In 2000 New

Zealand Parliamentary Service Act 200 strengthened the role of the parliamentary corporate body

Financ

There are three stages in the parliamentary annual financial cycle: securing the budget, deploying and monitoring of resources and reporting on/accounting for expenditure. The role of the Speaker, the corporate body and the Clerk is central to good governance. The corporate body sets the strategic priorities, determines the range and standards of services to be provided to Parliament. The Clerk is responsible for the preparation of the estimates, which are then endorsed by the corporate body. The Clerk is the Accounting Officer and put financial control in place and report to the corporate body regularly on actual expenditure against the resources appropriated for parliamentary purposes. The Clerk is also responsible for the preparation of Parliament's annual accounts and provides a statement of internal control that gives an assessment of the effectiveness of the Parliament's financial controls (7)

There is need for an accountability framework which comprise both internal and public reporting /external communications

Internal

- Estimates /corporate plans/financial plans
- Compliance with best practice accounting standards
- Internal audit reports
- Corporate audit committee\compliance audits against general legal requirements
- Customer surveys
- Equal opportunities policies

External annual reports

Audited accounts

External audit reports

Information strategy

Education programmes

Response to oral and written requests

Attendance at Public Accounts Committee

Recommendations

One of the recommendations of the Study group is that Parliaments should either by legislation or resolution, establish corporate bodies responsible for providing services and funding entitlements for parliamentary purposes and providing for governance of the parliamentary service

The head of the parliamentary service should be appointed on the basis of merit and have some form of protected status to prevent undue political pressure

The head of the parliamentary service should be given appropriate levels of delegated authority

Financial Independence and Accountability

Parliaments should have control of, and authority to set out and secure, their budgetary requirements unconstrained by the executive

The corporate body should ensure that an effective accountability framework is in place

Corporate bodies should ensure regular monitoring of actual expenditure against the money appropriated for parliamentary services

The corporate body should ensure compliance with generally accepted accounting standards

The head of the parliamentary service should have ultimate financial responsibility for the legislature

Parliamentary service

Parliaments should be served by professional staff independent of the public service and dedicated to supporting Parliamentarians in fulfilling their constitutional role

There should be a code of conduct and values for members of the parliamentary service

The parliamentary service should include not just procedural specialists but staff with specialized expertise, e.g. finance, ICT, human asset management, research and communications

Effective recruitment on the basis of merit and equal opportunities to ensure that the parliamentary service is representative of the diversity of the wider

Corporate bodies should promote an environment that encourages best practices for employee well-being community

Taxpayers are the most critical over the use of public funds in the Parliament. Therefore it is important to build transparency to its financial arrangements.

The study Group recognized that individual Parliaments would not be able to implement all of the recommendations, but, nevertheless, encouraged Parliaments throughout the Commonwealth to use the recommendations as a development framework for:

- Establishing greater levels of autonomy
- Strengthening corporate governance arrangements
- Developing comprehensive financial control
- Enhancing the status of the parliamentary service and
- Increasing public accountability

Parliamentary corporate bodies attempt to exercise authority free from executive interference. However, no parliamentary corporate body (PCB) operates wholly independently from the executive. The organizational expressions and authorities

PCBs, enjoy vary form country to country. In practice the separation of powers is considered aspiration and incapable of complete application, but nonetheless it forms the theoretical basis for the authority of Parliaments to take control of the organizations and management of their own affairs. Each system of partliamentary coproprate government reflects local culture, unique histories and need to be understood in the environemtn in which they operate .

One of the options open to aParliament in deciding how to administer services and manage finances is the establishment inlaw of a"body corporate" as themain supervisory body of the administration. this body is usually responsible for ensuringthat the Parliamnet is provided with the property, staff and services it required

In some countries the independence of parliament has formal recognition by s establishing a separate Appropriation bill voted on by Members. However,it is difficult to link the formal appearanceof independence with actyual effective budgetary independence.

Administrative and financial autonomy is a necessary but not sufficient condition for the full exercise of power by a Parliament. However, it is through the effective exercise of a Parliaments' prerogative that the degree of autonomy is best demonstrated. Besidethe specifics of PCBs organizational status ,it is important to enhance management decision-making in tertms of

Delivering effective public administration'be responsive to the needs of parliament and its members; and

Provide information to Parliament and the public that ensure transparency in the way public money is spent

,

The capacity to win public confidence through the involvement of independent assessment, the delivery of ethics compliance and the transparent reporting of progress (including costs) in meeting objectives (26)

There are no set of uniform answers to evaluate Parliaments corporate management. At the most fundamental level, Parliaments need to attain the autonomy that is required to reflect it as delivering one of the three structural plinths that represent democratic government. However, what is clear is that the powers, relationships and responsibilities between three entities is crucial, the speaker, the PCB and the chief executive officer ,since they most influence effective parliamentary control of administration and finance (27)

The Study Group recommended that Parliaments should be serviced by a professional staff independent of the regular public service. They posit that when Parliaments are managed through a corporate body or entity, the level of autonomy relates to:

- The ability to identify and gain financial resource it requires
- The independence of staff from external control-particularly from the executive
- The authority of Parliament to ensure the security of its Members and infrastructure
- The inclusivity of membership of the corporate body that sets it aside from party politics and

On Parliament' sovereignty. Sir William Blackstone stated "It has sovereign and uncontrollable authority in making , conforming, enlarging, restraining,

abrogating, repeating ,reviving, and expounding of laws concerning matters of all possible denominations, ecclesiastical , or temporal, civil , military ,maritime, or criminal.....in shorty it can do everything that is not naturally impossible.

Trinidad and Tobago has a bi-cameral system of government and unlike the Westminster system, is based on nominations through patronage with no security of tenure. There are two houses of Parliament and the senate

the 1962 independence constitution introduced three categories of Senators:-

Government, Opposition and Independent Senators (no allegiance to any party) appointed by the President on the advice of the PM, who determines which groups needs ought to represents the interests of society

No changes to the bicameral arrangement in the Commonwealth Caribbean since it is a difficult procedure to be satisfied in amending the constitutions. It has been difficult for for any Government to secure a special majority in the House.

Ghany, hamid, A Defeated Parliamentary Candidates as parliamentarians: A Comparative Study of Political Will vs. Electoral Will in grenada and Trinidad and Tobago. 5 February. 2002

<http://www.open.uwi.edu/sites/default/files/bnccde/grenada/conference/papers/Ghany.html>

Presidency has been severely damaged by political interference between the OPM and the President/attacks of bias against the office by some parliamentatians and politicians

HOR nominates the candidates for the presidency (12 Members of the House

Speakert of the House of Reperesentatives presides over the Electoral college and vitng is conducted by secret ballot ([23)

The Parliamentary system of T&T is a legacy of its British colonial past . It is a history that comprises both a diversity and commonality of experiences .

Under the bicameral system which was introduced in 1961, the Parliament of T&T consists of a Senate and a House of representatives. The executive branch comprises the president, the head of government, the prime Minister and a Cabinet of Ministers. The parliament is given special powers and privileges in order to effectively carry out its functions. This includes freedom of speech, the authority to regulate its business by Standing Orders and the freedom from civil or criminal proceedings for words spoken or written by Members before their respective House and in committee (39)

The effectiveness of Parliament

Responsible for the legislative process

Provide oversight of the government or the executive on behalf of the public

However in T&T it is presumed that oversight of the government is the responsibility of the opposition (we need strong opposition to monitor the work of the government or the executive.

Parliament provides mechanism for the oversight of the executive:-

Scrutiny of the executive –Parliamentary committee, parliamentary questions, Commissions of Enquiry, Media and communications Systems, Caucuses and Parliamentary Commissions

Secondary or statutory safeguards –auditors-general, administrative appeals, tribunals, ombudspersons, and freedom of information statutes....However these are at the mercy of governments in control of the legislature. They can be dismantled or weakened at any time (Evans) or simply ignored. (Reddock p41)

Committees of Parliament to provide oversight of the executives. They track the work of individual government departments and ministries and conduct specific investigations on salient aspects of their policy and administration. They are either permanent or Standing Committees drawn from:-

Government, opposition elected and appointed officials from a single or both houses (Joint Committees

Public Accounts Committees

Temporary committees –to address specific issues e.g Select Committee (to review particular pieces of legislation) **Many parliament have reformed their committee structure to review specific government offices and for members to develop appropriate expertise**

Committees have power to:-

enhance governance system (call on the executive to account for how it determines and executes public policy)

IN T&T there are three broad categories of committees-General Committees, Special and Joint Select committees and Police/Watch Dog Committee

General committees

Deals with the organization and power of the house (Sessional Select committees (standing order 64 to 68 and 71 to 76)

Standing orders committees oversee matters relating to the standing orders

Special and Joint Select Committees –

address legislative, financial or investigative

scrutinize legislation (e.g equal opportunity, public integrity) **where getting the pool of people to select???????**

{Police/Watch Dog Committees

Help watch over the executive (Public Accounts Committee and the Public Accounts Enterprise Committee

Examines accounts and money granted by parliament to meet public expenditure

To examine audited accounts of all state enterprises e.g Government ministries and departments

Parliamentary committees are laudable, as they represent the highest ideals of the parliamentary system with persons of different systems working together in the common interest. Conversely it raises issue of power and independence.

Must have the power and commitment to really provide active and real oversight of the parliamentary committees

Ability to take action if necessary lose favour if goes against party

Party politics can undermine the ability of the committee to provide effective oversight of the executive (IPU, 2011:4)

These issues make it difficult for committees to work because of the power of political parties and leaders to wield on committee members (47)

Parliament must represent the diversity of the people of T&T

Transparent and accountable in the conduct of business

Safeguard our national patrimony and ensure people benefit from the natural resources of the country.

The Speaker is the controller of the proceedings of the Parliament and his/her role is to-:

- Allow members to express their views
- Ensure they adhere to the rules of debate , that is, according to the requirements of the Standing Orders of the House;
- Regulate the time allocated for debate;
- Rule on any dispute as to the procedure to be followed by the house
- Protect the rights of the minority