

VERBATIM NOTES OF THE 24TH MEETING OF THE JOINT SELECT COMMITTEE APPOINTED TO INQUIRE INTO AND REPORT ON LOCAL AUTHORITIES, SERVICE COMMISSIONS AND STATUTORY AUTHORITIES (INCLUDING THE THA), HELD IN THE J. HAMILTON MAURICE MEETING ROOM, MEZZANINE FLOOR, TOWER D, INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN, ON WEDNESDAY, MAY 23, 2018 AT 10.13 A.M.

PRESENT

Mr. H.R. Ian Roach	Chairman
Ms. Ramona Ramdial	Vice-Chairman
Ms. Khadijah Ameen	Member
Mrs. Jennifer Baptiste-Primus	Member
Ms. Khisha Peterkin	Assistant Secretary
Ms. Simone Yallery	Legal Officer
Ms. Terri Ann Baker	Graduate Research Assistant

ABSENT

Mr. Nigel De Freitas	Member [<i>Excused</i>]
Dr. Lovell Francis	Member [<i>Excused</i>]
Mr. Esmond Forde	Member [<i>Excused</i>]
Mr. Darryl Smith	Member

10.46 a.m.: *Meeting resumed.*

PUBLIC SERVICE ASSOCIATION (PSA)

Mr. Watson Duke	President
Mr. Christopher Joefield	2 nd Vice-President

UNREVISED

Mr. Ian Murray

2nd Vice-President**NATIONAL UNION OF GOVERNMENT & FEDERATED WORKERS
(NUGFW)**

Mr. Clifton Simpson

2nd Dep. President General

Mr. Patrick Rousseau

Director, Industrial Relations

THE CONSORTIUM OF DISABILITY ORGANISATIONS (CODO)

Mr. Bhawani Persad

Vice President

THE JOINT TRADE UNION MOVEMENT (JTUM)

Mr. Chandrasain Ramsingh

Treasurer, O W T U

Mr. Kimball Austin

Deputy Secretary General, CWU

Mr. Alva Allen

Education Officer, BIGWU

Mr. Chairman: Good morning Ladies and Gentlemen. Thank you for coming. I would like to welcome the viewing and listening audience to the 24th meeting of the Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities including the Tobago House of Assembly. This morning the Committee will meet the representatives of the Public Services Association, PSA; the National Union of Government and Federated Workers, NUGFW; the Joint Trade Union Movement, JTUM; the Consortium of Disability Organizations, CODO.

Members of the listening and viewing audience are invited to post or send their comments via the Parliament's various social media platforms; Facebook, YouTube and Twitter.

My name is H.R. Ian Roach, I am the Chairman of this Committee and I will invite other members to announce themselves.

[Introductions made]

Mr. Chairman: Just to remind the listening members of the public and those who

are present, the objective of this enquiry this morning is: To assess the level of compliance of public bodies, in particular Ministries, with the provisions of the OSHA Act; to examine the efficiency and effectiveness of the operations of the OSHA Authority and its agency; and to assess the adequacy of existing OSHA legislation policies and guidelines.

This morning we are a bit late in starting, because we had to do a bit of housekeeping that went beyond our control. I do apologize to the members of the public and to you all present, and hopefully this will be a very fruitful, and productive, and constructive engagement this morning. It is not a hearing as such, that ought to take on any other complexion other than one of great information. As you all are members of the unions in particular, as stakeholders in this particular capacity of dealing, interacting with the use and the implementation of the OSHA Act, we are pleased to have you and believe that you can be of great assistance in helping us to assess the efficacy of what has gone on so far, in terms of the implementation of OSHA.

With that I would like to invite members to make a very brief opening statement, no more than five minutes and then we can proceed from there on. So, I will call upon JTUM's Chairman, Mr. Ramsingh, to make an opening statement—the Treasurer.

Mr. Ramsingh: Thank you, Mr. Chairman, members of the Committee, members of fellow trade unions. I just want to preface the discussion with respect to this enquiry by saying, notwithstanding the passage of the OSHA Act 1 of 2004, Amended by 3 of 2006, the operations of the OSH Agency from 2007, JTUM would like to categorically state that the OSH Act is ineffective at this point in time. There is insufficient protection of workers and the OSH Agency is under-resourced in order to efficiently, effectively and competently undertake the

necessary tasks to do the highest level of OSH compliance necessary in Trinidad and Tobago.

The OSH agency is presently under-staffed with a total of 26 inspectors, with a mere 23 inspectors who are available for performing inspections and conduct a mere 14 inspections per month. It should be noted that the amount of accidents has increased by some 124 per cent over the 2015-16 and 2016-17 period. Thank you.

Mr. Chairman: Thank you very much. I would like to invite Mr. Watson Duke, to make also a brief opening statement.

Mr. Duke: Mr. Chairman I thank you for this opportunity to invite the PSA and other fellow trade unions, to state our view on the way the Occupational Health and Safety Authority has effected the lives of the worker. We will want to say at this point that, the Occupational Health and Safety Authority has failed the nation, and specifically has failed the Public Services, or Public Sector I would say, workers.

They have failed from many points of view. They have been established by an Act of Parliament since 2004 and the Act has been amended in 2006. There are regulations, there are stringent laws in place but, they have failed to enact and to police those laws.

What they have done is engage in big-time politics. Now, we are hoping that this Joint Select Committee would be able to glean from us as trade unions, thoughts and ideas that would somewhat curb that level of politicking and that level of placing human lives at risk to their whims and fancies.

We totally believe that they have failed, and failed 100 per cent at everything they would have done from the time 2004 to present.

Mr. Chairman: Thank you. When you are finished speaking could you take off

your mike. I would like to invite, Mr. Clifton Simpson, to do likewise and make a brief statement.

Mr. Simpson: Good morning members of the Committee, and other members present and my fellow trade union comrades. I am Clifton Simpson, Second Deputy President General of the NUGFW. Mr. Chairman, before I make any comment, I just wanted to crave your indulgence for—it is a matter of efficacy in terms of the records from here on. Your correspondence to the union dated April 30, makes reference to the enquiry, but in the wording of the correspondence one can get confused as to whether you are addressing public officers or the union that represents daily-rated workers.

If you—at a cursory glance you will see it makes reference to daily-paid and for the record, we will want to advise the Committee that we represent—

[Chairman confers with the Secretary]

Mr. Chairman: Okay.

Mr. Simpson:—weekly, daily and hourly-rated workers. We are not daily-paid. I know that sometimes we use the term loosely. But, we are weekly, hourly, and daily-rated workers.

Mr. Chairman: Okay, noted that, thank you.

Mr. Simpson: And you will see that at some points, you make reference to “association” and “public officers” in our correspondence. We are not, in accordance with the laws, as daily-rated employees, considered public officers and information may be misconstrued to get the impression that we are public officers. And I say this, because there are other legal issues that come up in the context of the negotiations that may infringe on that interpretation. So, for the Committee’s advice I just wanted to bring that to your associates.

Mr. Chairman: And we appreciate that.

10.55 a.m.

Mr. Simpson: And where it makes reference to “association”, we are a trade union, a national trade union, and when you make reference to “association” one may get the impression that it is another organization that you are speaking of.

Mr. Chairman: Okay.

Mr. Simpson: Thank you, Mr. Chairman. On behalf of the President General, we would want to thank the Committee for inviting us here today and we look forward to a fruitful and productive session with you where we would be able to exchange or share information with you that will assist in the amendments, if any, to come in the forthcoming future. Thank you, Mr Chairman.

Mr. Chairman: Thank you also. Mr. Keith Sirju? Can somebody assist him?

Mr. Persad: Sorry. Good morning, Mr. Chairman. I was just a bit puzzled, because I did not hear my name. I thought I heard another name. But be that as it may, I, today, represent the Consortium of Disability Organisations (CODO). This is an umbrella organization of organizations involved in work of, and for persons with disabilities.

We view this as a very good opportunity for us, since over the last couple years we, the community of persons with disabilities, have been focusing on inclusion because we are part of this society, the society is not a part of us. We believe strongly, although we are not a union, a trade union to represent workers, because many persons or those who are fortunate enough to be employed in the public service, in particular, have been employed to do special tasks, but some of them are represented by various trade unions sitting around the table today.

There are very few organizations that provide sheltered workshops for persons with disabilities, and even with those there are issues when it comes to OSHA. I refer to places like the Blind Welfare Association which comes to mind,

and I know that there have been issues at that association over time, and I thank God that some of these have been solved. Maybe, I do not know, I do not work there but, you know, issues always go on a continuous basis from time to time. But we consider this a partnership in progress working as a consortium with the trade union movement and with the authorities to ensure levelling the playing field for persons with disabilities.

We got some questions from the Committee, I take it, and some of these we could not answer. As I said before, we are not a trade union, but we encourage our members to send any information to us, and we continue to encourage them to do that. But, as I say, some of their agencies are working with their respective trade union representatives to ensure that persons with disabilities employed within their fold are taken care off in the correct manner. And we also say that when we are doing things, accessibility and lighting becomes crucially important to persons with disabilities, particularly to those with visual impairment.

As you the Chairman will know, that there are many buildings which you, perhaps, cannot still enter. So we know that there was a building code in the works and was launched sometime in 2015, just before the Government changed hands, a product of the Bureau of Standards and the Consortium of Disability Organisations and, to date, we have heard nothing more, but yet we continue to see buildings being built without due consideration. Even places where persons with disabilities are supposed to frequent more often than other, but still we have some shortcomings and challenges there too. Thank you, Sir.

Mr. Chairman: Thank you very much. Gentlemen, I would like to put out to you—the first thing I would like to ask this morning, which seems to be the common thread coming from the responses from those of you—thanking you as well for the written submissions who were able to do that. Nevertheless, the

common position I am getting from you is that the OSHA, the Occupational Safety and Health Act, Chap. 88:08, seemed to be lacking in a number of ways. So I would like to get your brief comments, each of you, in turn, and we can start with the PSA, because I know, Mr. Duke, you have had cause over the years to have highlighted a number of government agencies that seemed to have been ill in terms of occupational health and health requirements. So, gentlemen, your comments on it would be appreciated, starting with you, Mr. Duke.

Mr. Duke: Thank you again, Mr. Chairman. The PSA has responded to over 3,000 calls.

Mr. Chairman: Sorry?

Mr. Duke: Three thousand calls, and those are calls regarding complaints regarding the Occupational Health and Safety Act. Frankly, a close look at the Act, you will see a document that is good, well balanced. It deals with health, safety issues and welfare issues, from drinking water to air quality to the worker having the right to remove himself if he senses danger.

However, the weakness of the Act is this. The Act does not provide for action to be taken against inspectors who would maliciously prosecute people, and I think a lot of inspectors have been prosecuting establishments maliciously and under the guise of being independent and they cannot be charged in their own right. And I think also to from our experience, a lot of the inspectors need to be made permanent, and the Act does not provide for these workers to be permanent. It provides for the establishment to be an independent one, but not for the jobs to be permanent.

And as long as you have persons who are not permanent, they will be fickle and they will become pawns in the hands of the political directorate. We have lived through three different types of governance or head of the Executive—we

had Patrick Manning; we had the hon. Kamla Persad-Bissessar; Dr. Keith Rowley, currently now. And what we have seen is that each of them will use the Occupational Health and Safety Act and the inspectors as if they were lapdogs, dogs to do their bidding and not to do the work of the workers.

Our members are seriously challenged in that they believe they have nowhere to turn to because these persons are not operating in accordance with the Act. So the Act is good; again, the Act is good, save and except, there should be some place in the Act where these inspectors or anyone who acts maliciously, can be charged in their personal capacity.

Mr. Chairman: Mr. Duke, I do appreciate what you are saying, and it is quite eye opening for me, and I am sure probably other members here, where the inspectors are concerned, but I want to remain as objective as possible in terms of dealing with whatever former administration in terms of the various heads that you just named there. Right? I think we need to look—what I am looking at is the legislation, and I do not think that the legislation will allow more Executive intervention in that way. I do appreciate where you say if people are not secure in their jobs and the organization ought to be independent, that is almost, I mean, it is obvious. You cannot really fully execute that level of independence. There is always the suspicion, even if they were not even being—the fear of doing something that may bring the wrath on them, I do understand that.

So I want to take on board what you are saying. We appreciate it, but I do not think necessarily we need to deal with the Executive getting involved at that level. We need to deal with the legislation, how we can tighten it up and, certainly, as you said, you have had 3,000 complaints, in the period of what? The three administrations or this is per year or what?

Mr. Duke: That is the three administrations, over 3,000.

Mr. Chairman: Wow! That is significant. Okay, sorry. Ms. Ameen?

Ms. Ameen: Chairman, if I could be allowed, I think from the very opening comments, the representatives of JTUM as well as Mr. Duke indicated that the OSH authority, you find it ineffective. What is part of the role of a joint select committee is to make recommendations for legislative changes. So I think I want us to get clearly on record whether you see the ineffectiveness of the authority, whether that is due to legislative shortfalls and, if so, you may have some recommendations to put forward. For instance, Mr. Duke made a suggestion about the opportunity to appeal or to have the decision of inspectors re-examined and so on. Is it as a result of improper implementation of the Act as stated or is it due to the authority being under resourced? And I got from your submission about the number of cases to be investigated and the number of inspectors that it is under-resourced. So with these three points, if you have recommendations under each of these that we could look at as a joint select committee to make recommendations to the Parliament.

Mr. Chairman: Mr. Ramsingh, would you want to respond to that?

Mr. Ramsingh: Thank you, Mr. Chairman. I just want to say the question asked is rather direct, and there are a number of things that contribute to the position that we find ourselves as a country in today. Not only the legislation as it is, but the structures to ensure that the legislation is implemented in the proper way, and by not doing that we find ourselves in the position we are. We had given a written submission, though not complete, the fact is, it also deals with structure.

Mr. Chairman: No, but sorry. Mr. Ramsingh, just to continue in the vein in which Mr. Duke started off, the question posed was whether or not the legislation—the shortcomings of the legislation at this point in time—and Mr. Duke identified in one instance, he said the legislation, it seems comprehensive on

the face of it. It is actually the implementation, and he outlined some of the shortcomings of the inspectorate. So, I want you to continue on that basis. We will get into the others actually. I just want to deal with the legislation as it is right now. There is a lot to cover, so if you can clinically, I just want to get different perspectives from you all because you all would be representing different interest groups but, basically, would have different experiences, some may be very common. So that is where I want you to go with me.

Mr. Ramsingh: Thank you, Chair, again, and for correcting that. The thing about it is one, is inspectors, the inadequacy of the number of inspectors that we presently have and the workload associated with Trinidad and Tobago which is an economy growing, and we have different workplaces as when the Act was first implemented in 2007. Right? So that is one.

Two, the security of tenure continues to be a hindrance because of the mere fact that these people are not sure where they are and there is low morale in the inspectorate at this point in time with respect to people, even their remunerations. They have people not being paid their gratuity for, my understanding, it is over three periods. So all those things contribute to it.

The other thing is with respect to the agency. There are a number of deficiencies that still exist in the agency with respect to—the Hygiene Unit is not up and running as far as I know properly. There is still lacking a research department. The statistical unit is something that you need in a country like Trinidad and Tobago.

Mr. Chairman: It is provided for in the legislation, but it is not implemented?

Mr. Ramsingh: Yes.

Mr. Chairman: Okay.

Mr. Ramsingh: In addition to that, the Act up to now does not cover domestics.

We still have challenges with respect to contractors and service providers providing service for homes and so on, and if something should happen there. There are things lacking there. There is also the issue of trainees at the workplace, which is still a grey line with respect to how we treat with that. So I do not know if—I think I add some value to it at this point in time.

Ms. Ameen: And you spoke in your submission about infrastructure?

Mr. Chairman: Ms. Ameen, just now. We just wanted to clarify something he just said there concerning the trainees. Just elucidate on that a bit. What do you actually mean? With the training aspect, could you just—

Mr. Ramsingh: What I am saying to you, the Act, there is a grey line right now with respect to the Act covering trainees at the workplace.

Mr. Chairman: Meaning that they are not covered under the Act?

Mr. Ramsingh: As I say, there is a grey line. I am not sure at this point in time, because we have had no experiences basically with trainees at the workplace and what happens in case something should happen to them.

Mr. Chairman: Okay. Mr. Simpson, you want to continue in answering?

Mr. Simpson: In responding to your question?

Mr. Chairman: Yes. I just want to get everybody to give me—

Mr. Simpson: Well, Mr. Chairman, respectfully, I recognize that your correspondence to us had spoken specifically to government agencies.

Mr. Chairman: Yes.

Mr. Simpson: We do have challenges external to the public sector that would arise on a number of occasions, but I would try to confine my comments strictly to the public sector and what it relates to there.

In the first instance, there is a lack of training, there is a lack of a proper association to how workers would be treated with respect to their pay should an

accident occur in the public sector, and you have to close down the area, because that is what would usually happen if an investigation has to take place, depending on the severity of the accident

Mr. Chairman: So you are saying the legislation does not cover this?

Mr. Simpson: It does not speak to it and a lot of our collective agreements, I dare say, may not really speak to it, given that in some instances it may not have arisen in an area that a trade union body represents the worker.

The other area is the Act requires that a committee be formed in all workplaces, which is a joint committee. There is very little compliance in most of the Ministries or public Ministries with respect to that part, 25(e) of the Act, with respect to that specific part of the legislation.

What we have is that some Ministries may appoint a health and safety—I would use the term—focal-point person, and they are usually treated with not much respect in terms of what is required of them, and where there are committees, those committees are imbalanced in terms of the representation on those committees.

I would also draw to your attention that when workers or persons serve on those committees, the duties that they performed on those committees are in addition to their normal day-to-day functions, because the committees are not really full time, but if you are person who has health and safety responsibility in a workplace, it takes up a significant amount of your thinking process and physical presence from time to time. So, therefore, the Act does not speak to how those persons will be compensated, in particular, in environments where the trade union is not there to negotiate an additional package for them.

There are instances where reference is made to the Workmen's Compensation Act, and how persons would be treated should an accident take

place. The Act seeks not to really interfere with what the workmen compensation says in totality, but it restricts claims even from the protection of the persons who are responsible for administration in the public service on how they treat with and process those claims in terms of accidents in the work place, and how workers will be compensated, and that is a general being.

Mr. Chairman, in terms of policy on how workplaces are to function on a day-to-day basis, I think in the absence of having a committee and in having a focal point person to address health and safety issues, a number of the Ministries are deficient on how they will treat with health and safety issues that come up on a daily basis. They see health and safety only in the context of providing protective gear and equipment, and not in the day-to-day operation and process of how workers are to function on a daily basis. I would pause there, Mr. Chairman.

Mr. Chairman: Okay thank you. Just for clarification, you said in terms of compensation under the OSHA, you are saying there is a difficulty with the workmen compensation?

Mr. Simpson: In that sense?

Mr. Chairman: Yes. Could you clarify what you are saying? I did not understand.

Mr. Simpson: What we have found—it has been our experience that in a number of instances in the public service, that if a worker should be injured, our members have had challenges with getting paid. If a doctor should say—if there is a medical reason for them to be off the job as a consequence of the injury, they have had challenges in getting compensation, compensated in terms of their normal pay as the workmen compensation says, and the workmen compensation is linked to the Occupational Health and Safety Act, the OSH Act. They have had challenges because people just are not trained to deal with those issues and, so therefore, a

normal working class blue collar worker, suffers a loss of income during the period of time that it takes for somebody to find out who knows and how to process the claim, and it is because there has not been any training in that area.

Mr. Chairman: So it is not that the Act does not provide for something like that?

Mr. Simpson: Well the Act itself does not speak to it, it just says—well it does not speak to it. The Workmen’s Compensation Act speaks to it, but the OSH Act itself does not speak to workers being compensated should in case action has to be taken.

Mr. Chairman: Okay, thank you. We are speaking of the inadequacy of the legislation or the gaps that you all have identified as it affects—

Mr. Persad: Okay, let me start by saying, firstly, that this document, the OSH Act, is a voluminous document—it is a pretty big document—and I am not sure that many persons with disabilities are too okay with it, because it is big too, one, and we do not have it in accessible formats, like braille, large print, or even audio production. And, secondly, as I said before because many persons with disabilities who are in the world of employment in the public service in particular, some of them would be directly represented by some of the trade unions sitting around the table.

In addition, well I just want to make a recommendation because we come from a different perspective in terms of we do not represent persons who are employed. But, I think one of the basic areas that we can look at in going forward, is that whole education campaign. When a person takes a job, what does he know about—well not the requirements—but the terms—apart from the terms and conditions, like the OSH Act, the workmen’s compensation injury benefits Act, there should be a joint education programme with the employers and the employees and the trade unions so that everybody goes to the same page at the

same time because some workers when they get injured, they do not know who to turn to, where to turn to, and they could be exploited in that regard. So, my recommendation is for continuous education programmes between all parties to ensure that everybody is on the same page.

Mr. Chairman: I thank you. And I would add to what you have just said there. I think where differently-abled persons are concerned, I think the Act is silent on that. There is nothing specifically here dealing with that, and so that is a big lacuna that needs to be addressed urgently. Ms. Ameen?

Ms. Ameen: I just wanted to ask if CODO has a working relationship with the authority, the OSH authority or if you have any sort of representation on the board?

Mr. Persad: No. We have no representation on the board and we do not have a working relationship. But it is not too late to start something.

Ms. Ramdial: Thank you very much, and anyone can answer this question. In your submission, you stated that the fire service, prison service, health services and laboratories should be removed from the list of exempted from the right of refusal and removal. Could you care to clarify on that?

Mr. Ramsingh: Thank you. Under, I think it is section 15 of the Act, they have the right to refuse dangerous work. The thing about it is, notwithstanding the inherent danger that these jobs, these individuals are exposed to, there are other conditions of work in those workplaces other than emergencies, where you have health and safety issues. These people who work in these conditions, they are under the Act, they are not allowed to do that. But these very same people are human beings also. The thing about it is, there has to be some sort of legislation to cover even if you are limited, to cover these people under the Act.

Ms. Ramdial: Do you have any recommendations moving forward in terms of an amendment to the Act?

Mr. Ramsingh: Well the first thing that we have to do is—I agree that they are supposed to be removed from the Act and make the necessary arrangements with people who represent those organizations in order to come up with a mutually accepted thing for both parties. Thank you.

Mr. Chairman: Mr. Duke, what I would like to ask you, being the most visible person in the promotion of the OSH Act in recent times: What would you say is the most or are the most common breaches of violation of the OSH Act in the public service?

Mr. Duke: Thank you again, Mr. Chairman. The most common type of violation—and I want to be a little bit philosophical about this one, but strange—is when we have persons who are empowered by the OSH Act to visit a site where a complaint has been made by an employee, the union, whatever, they ought to come within 24 hours. They come way after 24 hours; that is one violation.

Two, the second violation is where these persons who are to police the Act, they ought to carry out inspections with those who have made the complaint, or members of the union on the health and safety committee, and they often times leave out the union representatives, at least, for the PSA, I would say. They are left out.

Mr. Chairman: That seems to be a common feature from the other submissions made.

11.25 a.m.

Mr. Duke: Thirdly, whenever reports are done, it is shrouded in secrecy. It is given to the management and not even to the person who made the complaint, or the union who is representing the complainants, as the case may be.

Mr. Chairman: And it is also a common feature from the other person, so it seems to be a serious issue.

Mr. Duke: So, apart from those physically, insofar as health and safety are affecting the employees, the most serious one is the air quality. The air quality inside a building is equal to the air quality outside of the building, and in that air quality inside the building, the amount of air turnover is not measured on a regular basis. As a result of that, we have over 150 employees who are currently nursing injuries and health conditions that would have been developed on the job.

Mr. Chairman: As a result of poor quality air?

Mr. Duke: Well, poor air quality. All right.

Mr. Chairman: Yeah. Let me ask you something, do you involve the EMA where that is concerned? Do you get them to test?

Mr. Duke: No. What would happen normally when the PSA visits a site, we would raise the concern to the employer or person who is acting on behalf of the employer, citing the need for an air quality test. Now, an air quality test should be done, once things are of good standard, perhaps once a year, all right, but we have situations here where some special agencies, as CARIRI, and others would come in and they would test. They will find fiberglass in the air, a high build-up of carbon monoxide in the air, dangerous fumes in the air, temperature, humidity; a number of things within the air, spores. Sometimes when they do a swab they would find dangerous bacteria as *Stachybotrys* bacteria which is responsible for creating bleeding, internal bleeding in the lungs and eventually killing people; these can be found here. And when they find this, the employer smiles, and here comes in OSHA saying, the building is safe and workers should go back to work. I have met persons in one of the most beautiful, pristine buildings in this country. It is called the Service Commission building around Picton Street, blue glass and steel. The ground is scrupulously clean. The tiles are perfectly white. They have found, some years ago in 2010, *Stachybotrys* bacteria in the building. And there was one

lady there who had respiratory problems, she went to her personal doctor—because they are not paying, eh. They do not pay for a cent when workers are sick. And while she was doing this procedure where they put the camera down through her nose and into her lungs to see what it is, her lungs were punctured, all right. And there are many other persons I have met, recently in—maybe 2012, 2013, around there, we had the situation with the Board of Inland Revenue, Trinidad House, where the Permanent Secretary sought to send all of the workers on the recommendation of the PSA to an industrial medical exam. I could tell you, over 50 persons have come back with the pulmonary exams, failing. There had been fiberglass in that building also. There is no aftercare for these members. So the air quality, I say, is most important, followed by structural integrity of the building. Most of these buildings are extremely old, for example Port of Spain General Hospital. PAHO did a test and then an assessment of that hospital, and the others, and they found the building in particular, that houses all of the patients and the doctors, that building where, we call the ward building that has about five or six floors, that building should be totally demolished. The foundations are cracked, and, I mean, several parts of the building itself is falling apart, and today they are working there, while they leave the Children’s Hospital unoccupied and want to charge big money. So the State has to take responsibility for ensuring that workers who come to work under the State, in accordance with section 6 of the Act, are protected, that their health, welfare and their safety, are protected on the job. I say to you again, Mr. Chairman, a lot of our workers are damaged on the job and then they are forced to take sick leave; not injury leave, because injury leave is not a feature in the Public Service Commission regulations. What they have is sick leave, 14 days sick leave, but they have no feature as injury leave. When you are injured on the job it ought to be injury leave and nothing to do with your sick

leave. They force them to take sick leave; they force them to take workmen's compensation, which is less than your salary—it is not equal to your salary—and they force them to deal with the burden of sick health, mental stress to their family life.

Mr. Chairman: Okay. So is that something you would recommend, that the legislation should be amended to reflect in terms of classification of leave specifically for matters arising under OSHA?

Mr. Duke: Yes, it needs to address that, definitely.

Ms. Ramdial: Mr. Duke, since you identified some of the institutions and buildings within the public service, about how many in total are noncompliant?

Mr. Duke: There are over 500 Government buildings in Trinidad and Tobago, over 500 buildings that the Government occupies in this country, all right. And I could tell you, none of them in Tobago are compliant, none of them in Trinidad are compliant, not even the new Government Campus; none of them are compliant. But then again we have OSHA, and I ask myself sometimes who is the Minister supervising OSHA, you know, because OSHA ought to be going out as police, and enforce the law, but instead they go out and they simply allow people to break the law. And I am saying that openly on the record, somebody needs to police OSHA because OSHA is operating outside of the law.

Mr. Chairman: So, what will be your recommendation where that specifically is concerned? How best—what do you do to get your situation, that you have just identified, those situations redressed? What do you do? And how effective is it? New actions, I should say.

Mr. Duke: Right. Insofar as OSHA is concerned, again I say, the legislation should speak about permanent employment. That is one of the departments where performance appraisals must be done on time and must be done accurately to

ensure whether persons are performing or not. I could give you a classic example, Mr. Chairman, under the law, under section 26€ of the Act, it speaks of any building having 20 or more persons on the ground floor, or 10 or more on the first floor ought to have a valid fire certificate, and that valid fire certificate needs to be there around the clock. Anytime you do not have it the occupier of the building—not even the owner, the occupier of the building—commits an offence and is liable to a fine and prison. When the OSH authorities come to do an inspection they will find a building without a fire certificate and they will say, you can continue to work, and that to me is one of the most gross violations. That is why I say somewhere in the Act you must be able to find a part where persons could bring actions against OSHA for malpractice and malicious persecution.

Mr. Chairman: “Yeah”. Thank you. Sorry, Mr. Simpson, you wanted to say something, add something?

Mr. Simpson: Yes, Mr. Chairman. And I really want to thank my brother colleague here for raising the issue because I neglected to do it earlier on. In addition to what he said, one of the challenges that—having sat on a committee in one of the, what I would call the authorities, one of the challenges that Ministries encounter is that there are so many Government Ministries that are leasing buildings that are not Government owned, and there is a legal challenge to having the landlord make the building compliant as opposed to the Ministry itself, because of what the lease arrangement is. And the Ministries, I know, in some instances their hands are tied because they have to get permission, and when you have to go to—what is the thing you do when you are putting it out for tender?

Member: Tendering board.

Mr. Simpson:—the tendering board, there are restrictions on them. Insofar as when issues like what my brother raised earlier on, the “sick-building” syndrome

comes up, you are crossed between two things, it is either the workers stay home or you find a reasonable alternative building to put them in, or you leave them in that building, and more often than not workers are made to be left in the building because we have all these issues of productivity, and all of that coming up. And the public perception is given, that workers just do not want to work or they are lazy, when in truth and in fact, by staying in the building you are making them more sick and less productive. We need to find a mechanism to allow the Ministries or the department responsible to move away from that work environment into another environment in an emergency case where that is more compliant, and until the landlord either fixes it or the proper mechanism is put in place where the Ministry can fix it itself and therefore have the people occupy the building in a productive way, right?

Ms. Ameen: Mr. Chairman, I just wanted to find out something, I just wanted to touch a bit on the weekly, hourly and daily-rated workers, commonly called daily paid workers, many of them fall under, for example, Regional Corporations, and so on, that do manual labour, and therefore they would require protective gear. We have had some reports of—well, cutbacks in funding, and I want to ask you, how is that affecting your members receiving protective wear, especially those who are out doing those types of jobs?

Mr. Simpson: I want to thank the Senator for asking that question, the member for asking that question; it is not that I did not anticipate it may come. The Act says that the employer must perform some of its functions as far as is reasonably practicable. We do have challenges, and in some instances those challenges go beyond what the norm is, and in those instances we have advised our members not to participate in that particular work activity because it is injurious, not only to their life, their health and safety, but when they go into those types of

environments they take those diseases home to their family, which by itself presents another issue in terms of the national public good. There are local bodies that have been complaining about shortage of funds, and I would want to respectfully submit that issues such as the provision of protective gear should not be placed in a budget combined with other issues that have to be dealt with in—well, in the instance of local government with the burgesses, and wages and salaries. They should be allocated separate and apart on a national scale so that funds should, in my respectful view, funds should be drawn down so that workers will get their protective gear and equipment in the quickest possible time, when needed.

Ms. Ramdial: In your submissions you stated that when accidents occur the OSH agency gives the all clear to start up operations before the internal investigations are completed, is this the case for every single accident? Mr. Duke.

Mr. Duke: I will say that accidents in the public service could be different from accidents for the daily paid, weekly paid worker, we operate within the office, and the Act says the scene ought to be preserved and it ought to be recorded in a book. You can search any single Ministry and there is no record of it. I could say to you now, we have had a number of calls as recent as last week where a ceiling fell on a nurse in Mount Hope; a ceiling fell. There is no record of that in any book. We have where the elevator in the Twin Towers, Financial Towers has dropped on several occasions, one time damaging a person who is permanently damaged, there is no record of that anywhere. There are many—even instances in the Customs building, that new building across there, Government Campus Plaza, where the elevator dropped again, damaging people. So these things happen and it is “water on duck back”, no OSHA really ever show up. They just brush if off, and I ask myself again, who is policing the OSH authority? They are a law unto themselves,

and in my book they are more corrupt than the police service. It is just my view, a trade union view. That is my humble view.

Mr. Chairman: Mr. Duke, or any one of the other members here can answer, in a submission read, they said there is culture existing among employers where they refuse to treat with the trade unions—I think JTUM said so—is there not a penalty for that where employers refuse to treat with the trade unions concerning matters of this, “yeah”?

Mr. Ramsingh: Well, Chairman, that had been the experience in some areas, not all, I might say. But the thing about it is where that happens, we would like to recommend that some legislative reform take place in that area to ensure where they are recognized majority union, that the employer is forced to treat with issues dealing with health and safety issues at the workplace.

Mr. Chairman: “Yeah”. So what I am understanding from Mr. Duke at this point in time in dealing with the responsiveness, or the lack of responsiveness from the agency, the OSHA agency, is that even though the law provides for certain activities to take place in certain—by and large it seems to be, is being not done—they are not efficiently doing that, and there seem to be no consequences under the Act for their errors or their omissions.

Mr. Duke: Mr. Chairman, if you will allow me, let me just give you a vivid example. We would have had cause to—in fact, let me restate that, every single action by OSHA agency to close a building has always been done by workers forcing and taking risks to shut it down themselves. We have placed workers in that danger zone. You have to be in a position where you are willing to die for your rights, literally die for you rights, than to live in an environment that kills you. We have a situation where the Immigration, the passport office was shut down some years ago, and we pointed out to OSHA that there is no fire escape

downstairs in the building where there are hundreds of people at any one point in time, because the public would come in for their passports along with workers. There was no escape, one way in, one way out. Some days after there was an electrical problem, well OSHA came, they saw it and said, no problem, people ought to work. Some days after T&TEC came to fix an electrical problem, one particular person from T&TEC got burnt up in the building, he could not escape, subsequently he died. You know, the building continues to operate today, that is about over three years ago, without a fire escape still, downstairs, no exit door, but the OSHA is happy. They are happy. They are comfortable with that.

Mr. Chairman: So, Mr. Duke, I mean, what you are raising here, they are quite serious issues. As a matter of fact, as you are raising them I am also thinking of Mr. Persad's organization—

Mr. Duke: Yes. It is worse for him.

Mr. Chairman:—which I could very well easily identify with. If able-bodied persons are not being adequately provided for in those—you stand a good chance of escaping; a reasonable chance, I should say, in escaping, what would happen where you have persons from the public who are differently-abled, attending to those buildings, what would be their case in the case of an emergency? So, I mean, I am glad that this is being highlighted. I mean, this is quite a grave concern that needs to be addressed urgently. I want to ask any of you, what are your experiences in the court when you are dealing with actions where the employees are allowed to leave the buildings because the building is deemed—either the existence of hazardous conditions or due to imminent danger? Now, I find imminent danger is quite a significant or onerous type of danger. Imminent means almost immediate. What is the interpretation the court has been given on this? Does this pose a problem to implement or not?

Mr. Persad: Mr. Chairman, before you go there I just want to back up a little bit because I can also say, based on what I have heard coming out, a few years ago there was an incident at the San Fernando Blind Welfare Association. The management was called, they said, well, you know, you all stay put and whatever, but I say that to say that sometimes management of these organizations, they want to defend their track record and they do not really care about the health and safety of the persons who are employed there. Because in a case like the Blind Welfare Association, the majority of persons employed are blind and/or visually impaired as handicraft workers, as members of staff, and the management, some of whom, surprising enough, are in the same position because they are blind and/or visually impaired—but, you know, sometimes when you step up from one step of the ladder to another you see yourself in a different light, but I believe that when a complaint is made by an individual about a situation, that individual, along with the management team, along with the OSHA team must all be in agreement. Do not just tell the manager what you want to tell the manager, and the manager goes and tells the employees what they want to tell the employees, because the management might say, “well, look, de building good yes, allyuh go back to work”, but this time the building is not, and there has to be a cohesive approach to dealing with some of these problems.

Mr. Chairman: Okay, thank you. Somebody was answering—continuing. Mr. Duke, you were continuing?

Mr. Duke: Mr. Chair, could you just repeat the question just for clarity?

Mr. Chairman: I had asked whether or not—

Mr. Duke: Experience is in court.

Mr. Chairman:—in terms in court, in terms of dealing with the interpretation of imminent danger, has that acted more as a hindrance to getting workers to be taken

away from a potentially dangerous situation?

Mr. Duke: Mr. Chairman, you have asked a very sound question, the PSA have had numerous experiences. I was once hauled before the court and charged with contempt of court because an injunction was placed on the same Immigration workers I spoke of, that had refused to work in a building that had comprised their health, their safety and their welfare, and the injunction was given that these workers should not protest, as if they were protesting, and the workers continued to remove themselves from the environment because there is no injunction in this land that could stop a person from exercising his right under health and safety. And so, the workers choose to exercise their right under health and safety, but though they did that they got no help or support from the OSHA. I recall the Chief Inspector sitting in the witness box, and though he agreed that the carbon dioxide levels were way above normal, he was saying the building is quite good and safe to work in. I further recall a matter with the Sugar Industry Labour Welfare Committee, SILWC in Couva, where these workers refused to work because they were occupying a house that is used as a Government building, and there is no drinking-water there. When you look at the tanks it has moss within it. The electricity keeps fluctuating because these buildings were wired for home use and not for all that computer and heavy lighting, et cetera. And when they moved out the OSHA department said that they are refusing to work without imminent danger, and we went to court to decide it and the court said, “aye”, there was no imminent danger there, go back to work.

Mr. Chairman: The court decided there was no imminent danger?

Mr. Duke: And when they went back to work, about three days after, the building caught a fire on its own, electrical.

Mr. Chairman: What I am trying to get at, is it that the term used in the

legislation being, imminent danger, is posing to be more of a disadvantage as opposed to enabling assistance in rendering some sort of an immediate or temporary solution to a problem that may exist, that is real, you know? What is your experience in the court interpreting imminent danger to be? Has there been a pronouncement on that?

Mr. Duke: The court interprets imminent danger to be something that is about to happen.

Mr. Chairman: Right. Literally—

Mr. Duke: —as if it is virtual, like the sky is about to fall. But that nurse who got damaged last week while operating her normal duties in the Eric Williams Medical Sciences Complex, right, Mount Hope in particular, she did not see the roof falling down, all right? We want to go further and say, when the OSH authorities come to a building they do not do an air quality test, they do not know about respiratory illnesses, they do not do a pulmonary exam, they do not check the electrical to see if it is working, they do not check the structural integrity, they do not check anything. They just look around and say, okay, you have a report, you have this, okay, and even if there is no fire certificate and that building should be shut down, they encourage the person to continue breaking the law. So, I do not know what “imminent danger” is, and perhaps that is one of the things that needs to be deciphered and written down in the Act, but it must be done so with proper consultation because we know the Government, we know the politicians.

Ms. Ameen: Chairman, hearing the responses, we speak mostly of the reactive, what happens after an incident and how it is treated with. There is room and there is space for consultation between employer and management and the representative union in fixing the problems before the danger comes. So, for example, Mr. Simpson and his members could meet with the chairmen and boards of the

Regional Corporations who often have OSHA committees so they can identify what are the issues and put effort into fixing them before problems arise and workers are endangered. I want to get a sense from you if your unions have been engaged with the relevant authorities, relevant persons to take measures in terms of a constructive participation to prevent matters from coming up.

Mr. Simpson: Well, let me correct you, not all of the authorities have, as far as I am aware, health and safety committees functioning, and you would recall in my earlier discourse I did say that, in compliance with what the law says, there are no joint health and safety committees. You may have a focal point person or you may have a committee made up of people that you appoint personally, but a joint health and safety committee that requires that a trade union representative or workers representatives in equal status to the employer representatives be present, it does not exist in the way people may think it does. And to compel them—to answer the other question that the Chairman asked earlier—the Act speaks to meeting and treating in good faith, but that is only when you have a registered majority union. If I am not a registered majority union and I have a concern about some issue that comes up—even in the public service where none of us may have recognition status, the person who is in charge or the people who are in charge are not compelled to meet with us you know, because the first thing they are telling you, “well, you do not have recognized majority status”, and it means now that the OSH authority has to step in. More often than not, they would write a letter giving them a week to comply or a two weeks to comply, and what not, but sometimes that compliance requires that the OSHA goes out of the authority itself and seek expert advice as the Act requires, which they do not always do on those occasions.

Mr. Chairman: Based on what you are saying, do you know if all the Ministries have a committee set up?

Mr. Simpson: Not all. There are committees set up in some local government, in corporations. There are committees in two of the RHA's, as far as I am concerned; none that exist in the eastern, and in some Ministries there are committees, but not all of them are joint committees. Because we have—for instance, my brother there, they are public officers and they are daily rated employees, those committees are either lopsided or there is an absence of trade union representatives on the committees. The PS, or whoever is in charge may say, well, look, we need to have a health and safety committee, we have a focal point person, and you three people who are here in the management sector, you all are responsible for health and safety; and that is what they call a committee.

Mr. Chairman: Mr. Simpson, sorry, I do not mean to stop you, but I just want to give way to Mr. Allen, because he had been putting his hand up there and he is kind of lost in the back, like he has something to say based on what you are saying.

Mr. Allen: No. No. No. I wanted to assist on that particular point of the existence or nonexistence of joint health and safety committees in the Ministries. I know for a fact that are none in the nation's schools and there are none in the Ministry of Education.

Mr. Chairman: None in the Ministry of Education—

Mr. Allen: And none in the nation's schools, and that is something that is worth looking into. I think that—not that we expect the Minister of Education to micromanage, but there is a need for him to ensure that the PS and others get that information down to the principals, and so on, so that they could establish these joint safety committees at the schools.

Mr. Chairman: Thank you. Thank you very much for that.

11.55 a.m.

Mr. Duke: I would like to answer that because we represent 80,000 persons, and I

can say to you, there is a malpractice taking place where health and safety is concerned, where these committees are concerned. If there is a head of an organization, let us say we are dealing with the Board of Inland Revenue, they may want—the management will try to impose upon workers who the PSA rep should be, and they select a group of people from the head office. And while there may be offices as far as Sangre Grande, Toco wherever, these persons are unrepresented, all right, insofar as health and safety is concerned. And the Act is clear, once you have over 20 or more persons working in a building, you should have a health and safety committee.

And so we are calling not just for a committee to look after 5,000 people or may be more or less as the case may be, but you need a committee to look after a building sometimes based on the amount of persons working in a building. So that is one of the areas that the law needs to adjust a bit. Rather than just saying, 20 people in an organization, we need to look at the different sub-organizations, subunits of that organization that may have more than one person that may not have anyone within that building from the safety and health committee.

Mr. Chairman: Okay. Thank you for that.

Ms. Ameen: You see, Chairman, a lot of times we hear about the unions when they are advocating for pay increase. They are involved in talks, we hear about industrial action and work to rule, but we do not hear about efforts to fix the problem. We do not hear about constructive participation. And nothing prevents a union from writing to the head of organization such as in a regional corporation, for example, and offering to be part of an OSH committee if they have one, or suggesting that one be established where they do not have one. And to me, I think, that is something the public would want to see. I mean, it may not be as sensational, but I just want to get an idea if you have engaged in that, apart from

your own invitation, if you have been able to take the initiative to ask bodies to set up these committees where there are none?

Mr. Simpson: Through you, Mr. Chairman, yes, as far as the NUGFW is concerned, and I know that a couple of my brothers here have been engaging and taking the proactive approach to engage the authorities in the different areas to start committees. One of the greatest challenges that we have is that persons who are responsible for initiating the committee feel that they are, and I am using the words “tin gods”, and that they are under no obligation to make the time to treat with the trade unions as how they are supposed to. Every single time that you ask for a meeting, the meetings that they have in Port of Spain, whether it is at the head office or at the Ministry or with staff or whoever, becomes more of a priority than to meet with the trade unions. And this is what contributes in a lot of instances to workers taking a particular action or the union adopting a particular posture in getting the message out there so that the thing could be done.

Mr. Chairman: I believe that this could be attended to through some amendments in the legislation by requiring a compulsory meeting and a timeline for doing something like that?

Mr. Simpson: Yes. I would say so.

Mr. Chairman: That would be in the regulations, and the regulations is supposed to be coming on board, eh?

Mr. Simpson: Well I would hope so, Mr. Chairman, because there are some things that even the ILO would have catered for that we have not sufficiently begun to practice here in Trinidad and Tobago with respect to health and safety including recognizing some areas of illness that are part of the workplace related in illnesses and whatnot.

Mr. Chairman: Take off your thing for now, thanks. That has my concern,

listening to the number of inaction on the part of the agency when called upon to intervene in situations of workers' concerns of the environment for health and safety purposes. You know all the time there is the remedy of judicial review. Right? Have you all as Ministries ever sought to engage that against the agency in any significant or blatant omission for them or lack of impetus to act? Anyone has who has had the experience of that.

Mr. Duke: We would have had cause to write OSH on several occasions through our lawyers demanding OSH reports; they have refused to. And at best when you read the Act, OSH is an independent body and you really cannot take them to court and win. Yes, there is judicial review, but we do not want to be the first to go and try to pilot a lawsuit against OSH to find and spend big money and then, you never know, pay for their cost. It is not something that we should be should be fighting OSH to do, OSH should want to do their work.

As a matter of fact, let me hasten to say this, Mr. Chairman, nowhere in Trinidad and Tobago should any single employee take up a lawyer to go and sue any organization for damages. It is OSH's responsibility to act as the worker's lawyer and to defend the worker against an environment that is unsafe for his life, limb and his welfare. But OSH is not doing that, they are hiding behind the cloak.

Mr. Chairman: No. I do agree with you fully, eh, but in the instance where, I mean, as I am saying, being a member of the public looking on at what is going on in our society, and I saw a movie last few years, the number of times that I would have seen the PSA taking action to close down a building or not, right, taking all the politics out of it, if that is, in fact a situation that exists that these buildings are not fit for employees to be working in that environment and they are injuring their health, that is not something to be playing with. Right? And therefore, if the agency is falling, is dropping the ball, I mean, as unions probably collectively

under the umbrella of JTUM or FITUN or whatever the organization, NATUC, if the individual union cannot do it itself, I think you all should take a position where you all could collaborate and do a test case, because it is a serious thing and it is really affecting your membership. Right?

Mr. Duke: Mr. Chair, I want to say to you, I am happy to come here today because I know the power of the Joint Select Committee insofar as gleaning views and reporting back to Parliament. And I know for a fact one thing is patently clear here today is the distrust that exist between the union and the OSH authorities. And another thing that is clear is the fact that the OSH authorities are not operating within the law to protect and promote the health and welfare of workers.

Ms. Ameen: Yes. Mr. Chairman, I know prior to the sitting the Committee would have sent a list of some questions to the unions. I just want to get an idea or if you have to submit it in writing in terms of the number of untreated complaints you have with the authority at this time?

Mr. Duke: We can submit something in writing, but I will say from the time we would have occupied office which is in 2009 to present, almost 10 years, the OSH authorities have failed to treat. They have not treated with one issue raised by the PSA.

There is a building next to the Unit Trust building and the Treasury that has been demolished called the CSO building. Workers took the risk of refusing to enter that building. That building was structurally unsound even before I became president and the law was in existence. Workers took it upon themselves and they literally stayed out of the building running the risk of being dismissed or being called all types of names, and it was only upon their perpetual refusal to enter the building and do work, the OSH authority then came and shut the building the down and demanded that they clear out of the building. Today, the building is totally

removed from the area by implosion. There are many other buildings like that, that workers had to literally choose to refuse at the risk of losing their jobs.

Mr. Chairman: Mr. Rousseau, I think you wanted to assist us with something?

Mr. Rousseau: Yes, Chairman. I just wanted to make an observation, eh. I think fundamental for the success of the OSH authority is the ability of the government departments and all of them, whether it is, to identify the hazards and the risks, and to implement controls to reduce these distress.

Secondly, I want to say that the principles governing the approach in becoming OSH compliant must be constantly kept under review and must be articulated with a view to ensuring that whatever your nuisances or whatever dangers you pose are abated in a timely and efficient manner. I was listening to him, but I think it is important that we identify those things and certainly those things must be identified in the context of section 25E and 25F of the Occupation Health and Safety Act. I think it will do a lot to bring us up to speed of where we should be relative to this piece of legislation.

Mr. Chairman: Thank you very much, Mr. Rousseau. So is it accurate for me to say from what I am hearing is that—which is one of the questions we were supposed to pose to you, I think somebody answered it without me raising it with you. Is it that the relationship between the unions and the OSH agency is not healthy one itself?

Mr. Duke: Affirmative. The answer is affirmative on that one. It is not a healthy one.

Mr. Chairman: And this is not just the PSA, this is across to board?

Mr. Ramsingh: There is actually no real relationship unless you have issues. OSH would not flag something to the union; they will quicker talk the employer.

Mr. Chairman: So in other words, you are getting the impression of a lack of

impartiality.

Mr. Ramsingh: Yes.

Mr. Chairman: Yes. Mr. Rousseau.

Mr. Rousseau: I think, Mr. Chairman, that is there to be synergies and a symbiotic relationship between the OSH agency and the trade union movement. There is that lack, there is a space, there is a gap, and we have to look at why it is.

Mr. Chairman: So would amending the legislation assist that or there might be a different approach?

Mr. Rousseau: I think there is the need for a different approach. The legislation is there, and I think that that, if we do a gap analysis and look at why we are not—that gap is existing. We may be able to breach it.

Mr. Chairman: Yes. Can anyone—sorry.

Mr. Simpson: I do not want to loosely speaking like that. The Act provides for the OSH to communicate with the employer. It provides for the unions to communicate with the OSH when we have an issue, but it does not provide for the OSH—what is done, the constant communication that the OSH provides to the union really and truly comes from common law practice, as you may be familiar with, but the Act itself does not compel them to treat with the unions. It only compels the OSH to treat with the employer.

Mr. Chairman: Right.

Mr. Simpson: So therefore, when information has to be shared, there are instances, we would hear, “listen, ah sharing this with yuh, but”—

Mr. Chairman: I am not supposed to do that.

Mr. Simpson: “Ah not supposed to.” But you would write the employer and the employer would get the response and the union now would have to write the employer and say, “Well what is the result of this study?” and the employer may

say, “For purposes of trade and secrecy and whatnot, and whatnot, we are not compelled to share it with you immediately or in the form that we got it, but we are doing what we are supposed to.” And that is some of the things that you sometimes find the challenge with.

Mr. Chairman: Yes. So therefore everybody would not be on the same page, enlightened at the same time.

Mr. Simpson: But I wanted to jump on what my brother there raised earlier on, and I want to invite the Committee, just downstairs there, across in the old post office building, there are daily-rated workers there who do all the surveying for Trinidad and Tobago. They have nowhere else to turn. And if you go into that building you would see ceilings dropping out on people’s head, and you would find even in the air quality, you would see that there are challenges there. And those workers are made to work there, and it is not for want of the union trying to get them out, you know, but promises have been made again and again, and we cannot get them out of there, and that is under the Lands and Survey.

Mr. Chairman: So is it, again, accurate to say, from what you all have been representing to us that, apart from—some of the lack of responsiveness in a timely manner has to do with the inefficient capacity of the organization, in terms that there are not sufficient qualified staff members to undertake the numerous complaints that may be brought to their attention? Is that fairly accurate to say that?

Mr. Simpson: Yes.

Mr. Chairman: Yeah. And what would you say will be, I mean, the complement, I know what is the complement of the agency; it is a hundred and something? How many—what is the number of staff members there?—about?—below 50 per cent. So there is a need to ramp up that. Yes? And there is a need, based on what

you all are saying, that these employees of OSHA should be made permanent employees as well. That seems to quite obvious.

Mr. Duke: Well I just want to say, not the employees, the jobs should be made permanent. Some of those employees should be fired, clearly, they are malicious. But the jobs should be made permanent. That is what we want to say. The jobs should be made permanent.

Mr. Chairman, let me just, without your invitation, let me just plough ahead to say, not only is OSH Authority culpable, also the fire services of Trinidad and Tobago, they are culpable. They have been doing a slipshod job. As a matter fact, I could say to you without the fear of contradiction, they have produced many fraudulent fire certificates. I can say that for a fact. All the fire certificates at the Civil Aviation Authority are fraudulent. They have produced them and those certificates are fraudulent. In order to give—let me qualify. In order to provide a fire certificate of building there must be a fire drill, and they have produced about four fire certificates for four buildings without a single fire drill. That, to me, is fraud.

Mr. Chairman: All right. Mr. Duke, enlightening as it, right, I mean, when we make allegations of fraud, you know that is a serious allegation to be made. Right?

Mr. Duke: Yes.

Mr. Chairman: Yeah. So would you have taken steps to bring that notice to the appropriate authorities?—that this has been, in fact, noticed and you recommend that this be investigated?

Mr. Duke: I was waiting for a moment like this, Mr. Chairman, a moment when I have parliamentary protection to say it. So, I prefer a more type of a non-aggressive dialogue rather than to bring it and then the light gets shone on someone, you know what I mean? I would not really blame these people, these

people are operating under—

Mr. Chairman: Exactly.

Mr. Duke:—bad vibes. But when I bring it here now and I point out why— even at WASA there are several fire certificates there that are simply fraudulent. Many fire officers now are doing it from some kitchen, some car, just write it up and say it is good. They are not complying, because to have a fire certificate, based on section 26 of the Act, there are a number of prerequisites, and when we drill down a lot of those things are missing. And we can challenge that.

Mr. Chairman: Well, Mr. Duke, we appreciate this information, and I guess the Committee in our deliberations will reflect upon it, and where we can write to the various authorities to have that either verified or explained to us, I think it is important that the appropriate action then will be taken to remedy that, because if you are alleging that certificates are given without the proper inspections being done, that certainly is a major allegation that one cannot just put under the bridge. Right? So, we will be taking that on board.

And as you said, I do agree with what you are saying here, eh, that we need to engage in a dialogue, not in a confrontational manner, but in a manner that will enlighten us, empower us, because knowledge is power that we can do what needs to be done. Because at the time, we are all on the same side, eh?—the side of the public of Trinidad and Tobago, and all its employees, you see.

And if we can get more man-hours in a qualitative way in an environment that people are comfortable and feel protected, I guess productivity can rise. Right? So that is where we are going. This is what I am hoping to—at the end of this discussion that we would have had a lot of information from you all, a lot of insight that we can reflect upon and make an appropriate report that will be taken to be put in action.

So far, I think I am very much enlightened by what has been going on here, and the way it has been conducted, so in advance I am telling you thank you very much for being here and the type of information you have been sharing with us. Mr. Rousseau, you are putting up your hand as though you are in class.

Mr. Allen: Mr. Allen.

Mr. Chairman: Mr. Allen, sorry.

Mr. Allen: Yes. Just two contributions I wanted to add.

Mr. Chairman: And then Mr. Persad.

Mr. Allen: Just two quick contributions I wanted to add.

Mr. Chairman: Sure.

Mr. Allen: Firstly, in terms of amendments to the legislation. The Act gives the workers the right to seek redress before the Industrial Court. The Act does not give the union the unfettered right to do likewise.

Mr. Chairman: So that is something that needs to be attended to.

Mr. Allen: The union ought to have the legislative right to bring any matter before the Industrial Court that affects adversely the health, safety and well-being of the worker at the workplace. And it is something that we have been asking for before the Act was even passed. There was not one mention of the word “union” in the Act, but you have us summoned here.

Secondly, on the question of protection of the worker. The Act makes it an offence for an employer to prejudice the employment of a worker.

Mr. Chairman: Yes, I am aware of that section, yes.

Mr. Allen: Yes. And in that regard, if the employer is guilty, he will be punished in accordance with the provisions set out. But the Act does not say, as in the case of the Industrial Relations Act that the court can order, will order reinstatement, removal of suspension, et cetera, et cetera, and I think that that ought to be

specifically stated in the Act in the same way that it is set out in the Industrial Relations Act.

Mr. Chairman: Thank you. It is something we will also note as well. If I can say now, that we are intending to write to the Law Association. I know that the president of the Law Association, Mr. Douglas Mendes, is an eminent industrial law practitioner in Trinidad and in the Caribbean, and I think we will invite them, hopefully he will be able to make an appearance, to assist us when are reviewing the agency with the Ministry of Labour and Small and Micro Enterprise Development as well on the next occasion, which will be on the 11th of June, 2018.

Some of what you have raised here, or all of what you have raised here, where it is legislative, and dealing with the interrelation with the Industrial Court and so forth, certainly will give us an opportunity to put that to somebody who I believe will be able to assist us and give us the benefit of his experience and the benefits of his knowledge in this regard. I am looking forward to that, and I certainly am telegraphing to you all that what you have said here will inform a lot of what we will be able to do on the next occasion.

Mr. Allen was saying why, you know, they are not mentioned in the Act, but you are here this morning. You are here precisely because you are the person who encounter most, the legislation, that uses it, and we believe it appropriate to start with you first to give us a good understanding of what is expected. The legislation says X, Y and Z, what actually is the real experience that you all face when you try to use the legislation in securing the interest of the employees, and what you have done this morning, is exactly what we have expected you to have done, in a very cordial, in a very responsible way, and I am thanking you in advance for that again.

And whatever you may think of at the end of this session that has not been raised here, because we cannot raise everything and we are running just short of

time, not through you, I must say, but we will appreciate you writing to us. Right? And we certainly will like to, whatever can be written, whatever you think about before we reach the next session, which will be on the 11th of June, we will appreciate that. It would help us to be more relevant, and to be more proactive in getting to where we can feel comfortable that the OSHA is serving the purpose for which it is intended. Yes? Member, you had something you wanted to say? No? Mr. Persad. Sorry.

Mr. Persad: Yeah. Mr. Chairman, very quickly, there are some—it has been brought to my attention that there are some workers who are currently in no-man's land because the delay by the Registration, Recognition and Certification Board to certify a union to represent them, and we hope that whatever happens, that the time span for recognition of any, you know, union, should be shorter than, you know, just delayed, and the workers are caught in no-man's land, so they do not know who to turn to, where to turn to.

Secondly, as you quite rightly pointed out, there is nothing in the Act on disability or for persons with disabilities, and CODO stands ready to work with the Committee and with whoever in ensuring that the playing field is level for all. Thank you.

Mr. Chairman: And I endorse that to very much. Thank you very much.

Ms. Ameen: I just want to ask very quickly, Mr. Persad, if your organization is in a position to make submissions or recommendations as to some—written submissions—as to what could be included in the Act to cover persons with disabilities.

Mr. Persad: Well it is something we could look at, and we can circulate to our membership and get feedback and then get back to you.

Mr. Chairman: I appreciate that. At this time, members, as well as members of

the trade unions, I will thank you for your participation, and I will start by inviting Mr. Ramsingh to make a short closing remark for our benefit this morning.

Mr. Ramsingh: Thank you very much, Chairman, and members. I just want to say in closing that we accept your invitation with respect to sending further recommendations to the Committee, probably a little more clearly, with a little more time we have on our hands now, and also to consult with some of our other unions.

And in addition to that, I just want to say that occupational health and safety supposed to be, we are supposed to take a tripartite approach to it, in that, the fact that when parties work together and they come up with whatever that solution is to the challenges that we have bind from parties, and it is in the best interest of all, and it is more acceptable. So, I just want to thank you, again, for this opportunity on behalf of JTUM, to give this presentation to this august body. Thank you.

Mr. Chairman: Thank you very much for participation as well. Mr. Duke, would you also make a closing comment?

Mr. Duke: Mr. Chairman, indeed I am happy for this occasion. I think much has been said. We have gotten a lot off our chests. We are feeling lighter, and we do hope that given the fact that the Minister, under whose charge is OSH is here, that the appropriate steps would be taken to hold the OSH Authority accountable for the safety, health and welfare of all of Trinidad and Tobago's employees. Every single employee must be protected, and they must be vigorous in pursuing and enforcing the law. Thank you.

Mr. Chairman: Thank you very much, Mr. Duke. Mr. Simpson.

Mr. Simpson: Thank you, Mr. Chairman. On behalf of the president general and the members of the executive of the National Union of Government and Federated Workers, we want to thank the Committee, again, for inviting us here.

Hopefully protocol will allow for us—the trade union bodies that are here today—to have verbatim notes of these proceedings, should in case we may have to raise it again in the future. And we look forward to most, if not all of our recommendations that came out of today’s proceedings to be placed before the drafters of the legislation to allow it to progress.

We are very committed to Trinidad and Tobago and also to having a productive society, and we believe that with proper health and safety legislation, our trade union, as well as our brothers and sisters trade unions and fellow comrades, will also be able to put our foot forward in bringing this society, as in working class society, to make this country a better and more productive one. Thank you Mr. Chairman.

Mr. Chairman: I thank you very much. Mr. Persad, would you like to make any closing remarks?

Mr. Persad: All that is left for me to say again on behalf of the consortium of disability organizations, a big thanks to those who have invited us. We stand ready to work with all agencies for the empowerment and enrichment of all, including persons with disabilities as we work hand in hand, because we are part of society. We recognize that the UN Convention on the Rights of Persons with Disabilities speaks on a number of issues pertaining to employment, health, education, et cetera, and so we have to carry the mantle forward, in ensuring that all of us are included in whatever decisions, in whatever programmes, plans and futuristic activities are taking place in and around our country, for together we aspire, together we will achieve. Thank you very much.

Mr. Chairman: I could not say it better than that, and I thank you very much for that. So in closing, I would like to thank you, again, for your participation. I mean, this was very enlightening, it was a very positive environment, and it could

not have been achieved without your participation in the mature and objective way in which you did. And, you know, unions are seen sometimes in a combative way, and it is quite enlightening. I hope that the public will see that there is a constructive, engaging and sincere part to unions, that they play a critical role in our society, and we are all on the same bus, so to speak, and that what we want to achieve from this and any other Joint Select Committee that involves public entities in scrutinizing the activities and their efficiency, is only to create a better environment for us to prosper in.

And with that, I thank you, I thank the listening public, and just to remind you all that the next hearing of OSHA, which will continue with the Ministry and the agency itself, will be held on the 11th of June, 2017—2018, I am saying 2017. I am going back in time; 2018, and at that time we hope to take this to its conclusion. Thank you very much, and good afternoon.

12.25 p.m.: *Meeting adjourned.*