

Statement by Minister

Thursday, April 08, 2010

SENATE

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The Senate met at 1.30 p.m.

PRAYERS

[MR. VICE-PRESIDENT *in the Chair*]

STATEMENT BY MINISTER

Mr. Vice-President: Hon. Senators, a statement will be made a little later in the proceedings by the hon. Minister of Energy and Energy Industries.

TRINIDAD AND TOBAGO REVENUE AUTHORITY BILL

[Second Day]

Order read for resuming adjourned debate on question [April 07, 2010]:

That the Bill be now read a second time.

Question again proposed.

Mr. Vice-President: Hon. Senators, the debate which was in progress when the Senate adjourned on Wednesday, April 07, 2010 will be resumed. Those who spoke were Hon. Karen Nunez-Tesheira, the presenter of the Bill, Sen. Christopher Joefield, Sen. Subhas Ramkhelawan, Sen. Mervyn Assam, Sen. Annette Nicholson-Alfred, Sen. Wade Mark, Sen. Helen Drayton and Sen. The Hon. Mariano Browne.

Sen. Prof. Ramesh Deosaran: This Bill, Mr. Vice-President, and the context in which it finds itself proceeding, if that is the correct word, challenges most of the classical texts in public policy development and implementation. I use the word context because it is quite clearly not a straight line from 1993 when the first initiative was taken, throughout the consultancies that were done by American/Canadian agencies, one of the products being what is called the Deane Report.

Context is important because that is the stage in which we are now, as exemplified by the nature, complexity and scope of the current negotiations between the Government on one side and the union on the other side. May I say that it looks as if there is not one union involved? That is where the politics of the public policy exercise come in. So it is a highly charged political environment in which this exercise is being undertaken and, quite obviously, there are apparently very serious political consequences, especially in terms of what has been said by the President of the Public Services Association (PSA), that the Government will likely pay a heavy price. That is his view. This is the kind of environment in which this matter is being debated apart from the merits or demerits of the specific clauses.

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I sat here over the last two days and listened to all speakers. The last one, in particular, quite concise and very self-confident, took us into some aspects of biology from the larva to the pupa stage and so on and from the fluids how flight will be taken. Quite impressive! He stood like a politically gallant soldier fighting to the very last to defend what he thinks is right. I learned quite a lot from the Opposition Bench and from my own colleagues on the Independent Bench; one from whom some amendments were made to which we may want to give some attention.

I saw, in the midst of all this debate, the struggle to deal with what has been repeatedly called governance and that is one of the issues to which I would like to refer. Before I reach there, I think we should step back and examine briefly what is politics.

We learn from the *Students' Companion* that politics is a science of government; but there is really nothing scientific about politics. It has to do with the competition amongst interests; threats to a government properly elected and protests of one kind or another, which compel us to define politics as the science of inefficiency and making government also subject to those inefficiencies.

There is no other way. It is not that people in government are naturally incompetent. It is because of all these competing forces and the pressures on the decision-making levels of Cabinet that Government has to seek a way out through compromise. That is why I refer to the negotiations. I would expect that on either side there will be no outcomes exclusively favouring one side or the other.

I have looked at some headings of a proposed memorandum of agreement and I have seen several things that are quite reasonable, from which each side could gain, so that there would be more light than heat in the negotiation process. I am taking time to explain this premise because this is a critical Bill. It has to do with people's money, taxation, the lifeblood of the country's economy. If you do not have the money to run a country and if those moneys are not properly collected, the country will suffer.

I hope that the spirit of compromise on both sides would be manifested and the hard lines outside would be sobered by a softening of the hearts inside the negotiation room. It is not that easy because when the Government announced its decision to review the Bill, the President of the PSA dutifully, in addressing his followers, claimed a victory. I believe it may have been a premature announcement.

In such situations, that helps push the other side against a wall prematurely because it becomes a case of seeing who is bigger than whom and you have a clash of the titans that obstructs the smoothness of the negotiation process.

The negotiation process is not the kind you would find happening exclusively in air-conditioned offices; that you find in those elite organizations across the world—the multinational corporations. This is open warfare with each side trying to demonstrate its respective legitimacy. That is why we have this controversy.

Let us face it. In a system like this, the unions cannot afford to lose face and go back after all the protestations and tell its members it has given up this, that and the other. Neither can the Government, after 17 to 18 years of work coming forward with this legislation, easily back down and say it has given up this or that. That is why I am hoping for some civic-minded, noble compromise so that the matter could be wrapped up today.

It is difficult for people not to save face in public. It is difficult for an organization, especially government Ministers or Cabinet, to be humiliated in public. They have to find some way to save face. This happens in all organizations, especially political parties. It is now happening in the PNM; it is happening in the UNC with people who are not being elected to office trying to save face in one way or the other. It is a natural consequence in organizations, especially political parties, where saving face and the role of the ego is so critical for one's own identity. It is more important than money to save face and to maintain your own personal dignity.

Of course, I am impressed by the vigilance and persistence of the Public Services Association in this exercise, especially that of its President, and we have, of course, heard from Sen. Joefield in transmitting the message in the official Chamber of the Senate. That is why I said that this public policy issue is something from which we can learn. How is the public policy framed especially in a matter like this one?

When I read the speech delivered in the other place by the distinguished Minister of Finance, those are the kinds of questions that arose in my mind. The hon. Minister would naturally be asking herself: What have I done wrong? What have I left out?

1.45 p.m.

Listen to a small part of her presentation, for us to understand the difficulty that she now finds herself in. In describing the Bill she states:

“It is about Government ensuring the protection of our nation's borders and facilitating competitive business, with a view to securing a superior quality of life for each and every citizen of Trinidad and Tobago.”

Who can challenge that statement? She said that it has been framed under five pillars for Vision 2020. She went on to say that the Bill is designed to bring greater transparency, efficiency and effectiveness to the management of revenue collection in Trinidad and Tobago. Again, who can quarrel with that? She went on to point out that more than 90 per cent of the Government's revenue is collected by these two divisions under question. She said that she intends to pursue a management framework and she wants to see fundamental changes naturally taking place as a consequence. She went on to signal that the Bill is also designed to prevent money laundering, provide national security and to offer excellence in customer service.

The point that caught my own attention and on which I will elaborate is her argument for transparency and equity in framing this new legislative framework, as it were. The Minister did go on quite eloquently to argue that the current arrangement is not working and overall, why the need for a transformation is so necessary.

In terms of our sense of humanity, the Minister would rightly ask herself: What is there wrong? Where have I faulted? But, there are several issues. Let me first of all refer to an editorial in the *Daily Express* of February 25, 2010. With respect to the TTRA, the editorial says:

“...even if the TTRA is technically sound with respect to its management systems...the values brought to the new entity by former employees of the IRS and the Customs Division, and also by new employees sharing a general culture, may result in the Revenue Authority merely replicating past defects.”

The argument is against, in a sense, hiring wholesale all those who have been in the Revenue Division initially. But, it goes on to make an argument that if, indeed, there is corruption—that point had been made yesterday—the Government would have done much better. It could have shown us some more tangible evidence of corruption. Certainly, to make a globalized statement about corruption in the Revenue Division and Customs Division is not sufficient, it does seem to cast an unfair blanket over all employees of that particular administration.

I have seen this happen, like in the police service. Implicitly, what it does is it demoralizes those who are good, efficient, productive workers, because you have not really identified who the real culprits are. It is not necessary for you to find them guilty in a court of law, but you could have brought up some figures to show that in the last 10 years, so many charges have been laid against these officers and so many man-hours have been lost because of delinquent action and matters of that kind. Perhaps, in the wrap-up, the Minister or some other government

spokesperson might explain. I am speaking because I have a vote in this matter and I am here with an open mind. I am waiting to the very end to decide. That vote can go three ways. Which way will I choose?

The issue really is not only about the Revenue Authority, the Customs and Excise Division and the IRS. When I read the Minister's contribution, it quickly occurred to my mind that similar problems exist in the Licensing Department; Immigration Department, when you come to customer service and the collection of fees; and the management that is required to deal with those issues properly. What we are really entering into here is fire-fighting and bush fire outing, in a sense, because, there are many other fires to attend to. The response could be: Well, we have to take it one at a time. I say yes, but you are taking your time too slowly, because while the grass is growing, the horse is starving and the public feels it. That is why you would have a sense of restlessness across the country, because people are fed-up with going to the Immigration Department, come back and stand up from 4 o'clock in the morning. If you go to the Licensing Department, the clerk is having lunch 10 o'clock and nobody is there at the desk to collect the money.

If you go to Chaguanas Licensing Office—I want to know if St. Ann's has moved down to Chaguanas—it is like a mad house! The day I visited, the rain was falling. The people had to stand along the roadside to wait for their turn to get their photographs taken. That did not happen yesterday, because those are some of the problems that the Minister is trying to solve, with respect to Inland Revenue, customs and the IRS. We have a public service calamity in this country.

I remember Sen. The Hon. Dr. Lenny Saith, with another portfolio, perhaps, spoke forcefully about public service reform. This should have been a subject of public service reform at that time, incrementally, rather than come in what looks as a powerful but yet a one-shot exercise and you leave the Licensing Office behind; you leave immigration behind and so many other agencies. What would have been a reasonable approach, in terms of, to use the fancy word, governance? What would have been a more convincing approach for the public? What would have been a more persuasive intervention, if you want to use the words efficiency, effectiveness and coordination? It should have been public service reform within constitution reform, because you cannot deal with that exercise without looking at the Public Service Commission and the role of the service commissions generally. These are important issues.

I do not want to deter the Minister or the Government from taking this initiative. I want to take the opportunity to, perhaps, reaffirm what they might

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already know; that you have to take a position, as uncomfortable as it might be, with regard to your service commissions. You cannot complain about the inefficiency of the service commissions, their ineffectiveness on the one hand and you are still supplying them with more staff and more financial support. That does not seem right.

It seems as well that you are running away from the problems. When you cannot handle the police properly, in terms of executive management, crime reduction and intelligence gathering, what did you do? Did you tackle it inside the police service? Did you hold people to account through the service commissions regulations or the policy jurisdiction of the Minister? No, you formed another agency, SAUTT and supplied them with a lot of resources, having the possible effect of demoralization of the regular police service. You have done that in many other respects, leaving us to wonder that you are failing in public administration generally; no matter what the good intentions are by single Ministers.

This is the most heartrending part of it, because I know some of the Ministers very well. I know their capabilities and their intentions. They did not come in here, I am quite sure from what I know of them, for any mercenary advantage. Some of them have left better paying jobs to come here, because they feel they have a service to offer the country with their skills and their sense of commitment, like many of us, to develop this country. But when you come in here and realize the systems and structures are not working properly, your initial job is to tell the Cabinet: "Listen, the piecemeal approach will not work. Let us look at this thing from the top down." They have been here for many years.

I thought when the UNC government came into power, the first thing they would have done was constitution reform, because they have been speaking about proportional representation and a number of other things. That is water under the bridge. This Government has been in power for a number of years. It should have been time that you keep faith in the public, in terms of constitution reform and put the service commissions as an integral part as to where you stand and the public will support you. I keep saying if you explain to the public properly, what you intend to do and the reasons why, you will get support. But the way you have been doing things, almost every single important policy measure you have taken, gets inflamed by widespread public controversy. Have you not sat and asked yourself: Why? I do not believe it is in all cases that the people who disagree with you have political agendas. I do not think that is in all cases.

I think they wish to see quite early, if there is an election, that it should be made a manifesto issue. The service commissions should be put in the manifesto of every political party contesting the election, alongside public service reform,

because you cannot, after the election, come back with these same problems and seek validation through the backdoor. You should put it frontally before the public and then you can say: “We fought the election on this basis.” No union or no gathering of unions could then legitimately attack you, except on points of industrial relations, but not on the policy.

You formed a sports company. That is not working. The only way it is working is spending money, as far as the public is concerned. You have to revisit this whole issue quietly and soberly and make it look as you really intend on public service reform, rather than a piece here and a piece there. The same arguments that the distinguished Minister used could be applied in a more general sense, efficiency, effectiveness and so on. I think you keep running away from the problem and in running away, you put your foot in the wrong place and you stir up a Pandora’s box, as it were.

When I hear that about 52 per cent of the vacancies in those two divisions are not properly filled over a long time, that should be a forefront argument to ask the question, either in Parliament or in the public: What is the Public Service Commission doing? It looks as if their functions are having a very serious and adverse effect on the Government’s capability. I find you are rather silent on that issue, except for now and again you would almost whisper about the inefficiency of the Public Service Commission. That is a big issue, because it has entangled your feet and your capacity to do what you are required to do: efficient public administration.

2.00 p.m.

Well, bring legislation here, if not, later in your manifesto, to do away with the service commissions. You cannot tell me that 52 per cent of the vacancies—I got it from my friend. I knew him at university, a highly professional gentleman, as far as I know him, Dr. Andre Vincent—in an agency are not filled. That is a scandal! I do not know how the Government can tolerate that without making a big noise about it. The Chairman of the Public Service Commission, at the next rounds here, if I have the opportunity, on the particular joint select committee, would be asked this question, that is if he is still there or if the service commission is still alive.

I also understand that about 40 per cent of those employees are over 56 years of age, which means the option for VSEP or being rehired on contract or permanent with the establishment of the TTRA is just another reasonable opportunity, for many of those. I understand there are 1,700 current employees.

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So, the Bill is important in terms of public administration. It also has a constitutional importance, because you are attacking, frontally, section 121 of the Constitution: security in the public service. If any such security has been modified or taken away, there has to be particular process which brings us to the need for a three-fifths majority.

When you look at the literature on these issues of revenue authority formed amongst the 50 countries across the world, and you read some of the research papers, all through the fine print, there are two key issues that stand out, and when you boil it down, these are the two key issues that the legislation should attend to. One is how distant you should keep the political directorate from the exercise of tax collection, tax accountability and management of an authority like this. That is one issue. How far should you keep them? There are many reasons for this. In this particular jurisdiction, which we call our local political culture, given the antecedents that we have been witnessing—I do not necessarily want to enumerate the O’Halloran issue and that the fellow went to Panama and so on. It is not necessary.

The other issue is: How much control to exert over the management or how much flexibility to allow management—meaning the CEO and the board—inside the establishment? How much flexibility will you give? Those are two key issues. You could talk about everything else but, in my view, those are the two key issues, because those two things will determine not just transparency, accountability and equity, but it will determine the degree of transparency; the degree of equity; and the degree of accountability. That is why those two issues are so important.

In the first instance, it will also remove the political distance of which I speak or I should put it the other way; it will increase public confidence in the establishment, depending on the distance at which you keep the political directorate. That is in the literature, and the literature gives the reasons that things have not succeeded as they should, or they have succeeded as expected, depending on these two key variables.

So I ask myself the question, because I have heard it drifting here and there: What is the nature of this beast, this TTRA? Is it like a statutory board? Will it be subject to the Statutory Authorities Service Commission? What will it be? That will bring us to the other issue of what rights the workers have in terms of industrial disputes. Is it an essential service? Is it designed to be an essential service? To what extent will it be involved in the Industrial Relations Act? Is it one or the other of the two companies that fall under the Companies Act? I think that needs to be clarified and, I think, the answer might be very easy. It might just be because of my own naivety in this particular matter.

We are not sure if this agency could be called before a joint select committee. I am not sure, and to give my own view, having had the experience in Parliament, as I have had, it should be made to appear before a joint select committee. But what do you find at that end? There are two important things; one is that—here again, you see, in matters of this kind, in terms of public response and in terms of parliamentary debate, whilst you have to focus on the particular Bill, and sometimes unfortunately on the particular Minister, people cannot forget or ignore other appropriate situations that affect the operation or the integrity of the measure at hand if implemented.

To what do I refer? I refer to the mechanisms that should be available to this Senate for accountability. I have to get back to the point where the Government perhaps, accidentally—I always feel it is an accident, because I am yet to believe that they did that deliberately. I feel it is an accident, and I feel many Cabinet Members were absent when the decision was taken. How could you move to reduce the joint select committees from three to two when you already have insufficient scope and opportunity to hold agencies to account? It was because of a fight put up here in the Senate, especially by the Independent Senators, joining in with, of course, the Opposition, not in a political sense, but in a sense of governance, that we were able to let the Government restore the number to three, but it came from the Lower House. It was chopped down from three to two. That does not send a good message. Everybody would agree with me. The most diehard PNM supporter would agree with the logic of what I am saying.

At a time when you need accountability in the public interest, secured and promoted by the Parliament, your body of representatives, and where the Constitution exists firmly and properly, you were cutting down the realm of accountability available to that agency, the Parliament, and you want to tell me now about transparency, accountability and fairness! No, it does not sound right.

I might say, it is not the fault of the individual Minister. I am at pains to say so for many reasons which I will not enunciate. We are speaking about the Government, a Cabinet and the mishaps in my view that the Government made. So, you cannot boast or, perhaps, you should not boast so much about the thrust for transparency and accountability. You have lapsed, and I am charitable enough to say that, perhaps, you lapsed accidentally. One of these days you are going to realize your mistakes and reform the system according to the Standing Orders which is my second point.

For donkey's years now there is Standing Order 72. If this Standing Order provision was properly entrenched, the Minister's work would have been easier.

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Her predecessors would have made life more comfortable for the distinguished Minister. She would have walked into an open door as it were—[*Crosstalk*]—I ask for your protection, Mr. Vice-President.

Mr. Vice-President: Yes, Senators, please allow the Senator some quiet so that he can make his contribution.

Sen. Prof. R. Deosaran: I am saying so as well for the benefit of the challenger in this election, the UNC. So, if you do not listen to me properly, you might make the same mistake or even a worse mistake when you come if you do not listen to what I am saying. [*Interruption*] This is not monopoly I am talking about here.

Standing Order 72 would have afforded the Parliament, on the Government side, as a data gathering exercise—Listen to how reasonable this thing is. You do not have to be a rocket scientist to understand, not only the necessity, but the value of what I am going to say. Standing Order 72 says:

“At the commencement of each Parliament, the Senate (with the concurrence of the House of Representatives) shall appoint the following Joint Parliamentary Committees:

(a) Banking, Finance and Estimates;”

Under which I believe this exercise would have fallen. Why is this important? The Government and other parliamentarians could have called the business community here—not to go and see them in a private meeting, or call them and give them a memorandum in confidence and so on—and enquire from them what are their views on this matter, and let the PSA appear before the committee and say what is their view and problem, and all those letter writers and editorial writers will then have to come.

Mr. President, if they do not take the opportunity to explain their positions and to assist the Government in running the country properly, through a parliamentary mechanism called the joint select committee, they will have to hold their voices after that. This will enhance the legitimacy of the Government to pursue its objective. Therefore I ask: Why? On the contrary, you are cutting down the opportunity for accountability. That was your intention.

I must always commend—I hope I do not put him in trouble—the enhancing attitude of the Leader of Government Business in the Senate for understanding and appreciating the advice from Sen. The Hon. Dr. Saith that, yes, they should accept the amendment and move it from two to three rather than cutting it down from three to two. That was a civic exercise.

I then take my hint from the previous speakers: Sen. Assam, Sen. Mark, Sen. JoeField, the Minister, Minister Browne, Sen. Drayton and Sen. Nicholson-Alfred. I listened carefully, because I know the importance of the Bill, so I went and reviewed the Bill, as you say, very meticulously, and the first thing that jumped out to me is that this board is like a Jekyll and Hyde scenario. One minute you see it here and lower down it disappears from the management configuration, or I should say, over-powered by another force. The board really has been born, but it appears castrated, and I will explain why in a few minutes.

At the same time, the CEO, quite a bright fellow—I know him as I said, and I respect him—but he has been put in a position as if he is a plastic band. He has to stretch here and there, and he has to report to the Minister when called upon, or on his own initiative he has to give the Minister some kind of information; bypassing the board. So I stop and ask myself: Will this thing really work?

2.15 p.m.

You see in terms of people's privacy and the damage that can be done to people's property, reputation, in those terms we all will be affected. We are not an audience here. We could either be victims of this thing if it does not work well, and I speak primarily about the secrecy and confidentiality that is required by the personnel in these agencies. That is where the key issue in the literature about the distance between the political directorate and the operators of this system becomes so crucial.

Listen, Mr. Vice-President. It is not that you do not trust politicians or Ministers. That is not the issue. In the early life of democracy it was realized quite early that once people get in office their first quest is to remain in office, and that quest is natural across the board. But what it means, what it implies is that you would do almost anything to remain in office, especially when you have taxpayers' money at your disposal. That is the scenario. It is natural. Who wants to go to office and allow yourself to be so vulnerable to be wiped out by the Opposition?

So what has been done? In the Westminster system—that we inherited—an opposition is created to always hold the government side to account for that reason. Because it is said in the Westminster system, you cannot trust those in government, they have to always prove that they can be trusted. That is why you create an opposition, and that is why you have the press, known as the fourth estate and known more precisely as the watchdog of the Government, and whether they fail or not that would be their responsibility.

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But I am just giving you some examples to show you why there is skepticism and some uncertainty about the integrity of this exercise and the extent to which the Executive should intervene. Right now the Minister does have some room to intervene, but in the new dispensation and with the apparently increased powers given to the Minister—that is the Executive—and the question of secrecy, confidentiality and the uncertainty about using information for politically bipartisan purposes, I think we all have to be careful.

I am not dealing with this legislation as if the PNM will be in power all of the time. I am dealing with this in case a new government comes into office. What will happen? Because we have seen what has happened in past governments. So you would forgive me if I make the point more general than merely referring to the present Government. That is why you have people like Hobbes speaking about the brutishness and the nastiness that will occur if you have no checks and balances in government.

Let us take clause 8 first of all. When you look at clause 8, you see the Minister appointing the board. All right? Then you look at clauses 12 and 13, the Minister gives the board policy directions, but the Minister also sets the terms and conditions for members of the board. The thing is building up, you see the embracing nature of the political directorate.

Clause 16:

“The Minister shall appoint the Chief Executive Officer and the Deputy Chief Executive Officer...”—for five years.

Fixed term. This is not public service anymore. This is almost like a contract.

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

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

Question put and agreed to.

Sen. Prof. R. Deosaran: Thank you, Sir and thank you Senator. So in clause 16, the Minister appoints the CEO and the deputy CEO for five years. So you see the quantum leap from public service security into a contract scenario.

I am not knocking it unnecessarily, because you can demand more accountability and more certainty in such a scenario than if you have them on public service tenure for donkey years as it were, and with a very, apparently,

inefficient Public Service Commission operation. So there is justification, and that is what I would like to hear the Minister say to convince me. She has not put it so specifically, because she does not want to get entangled with a service commission that is constitutionally independent. But it is time for you to justify yourself, and as a good lawyer—anyhow.

We come to clause 17(2). Minister Mariano Browne made some references to the nuisances in such an exercise to the point where he said—well, almost, I have it down here—it is like an experiment. He made it sound like an experiment: We are not sure how things will turn out, let us wait and see. We have to be creative. Which reminds me of creative accounting, and you know where that has put a lot of people, behind bars. I understand what he was saying and he was honest, because there are unforeseen circumstances that would naturally develop in this new exercise. I am certain about that. So he is quite honest, but I think that honesty is not enough for a matter of legislation where you need a better grounded outcome.

But clause 17(2) tells you, in dealing with administration and enforcement, the Minister gives general directions to the CEO, and in that same clause, another subclause, the board also gives general directions to the CEO. They are, of course, within different parameters. But I am not too sure if these two parameters are so discrete that you would not have a tumbling, one over the other, especially when you are dealing with matters of administration and enforcement. Because you would hear in one clause, the Minister giving general policy directions and in another clause, somebody else has to give instructions for daily management.

We have had that problem with the Police Service Commission and the police service in terms of policy, and the Minister too, and there is a current entanglement between these three agencies: The Police Service Commission, the Minister of National Security and the Commissioner of Police in terms of what is policy, what is management, what is administration and where each line of jurisdiction is separated. I see problems here, unless the Minister could convince me, having an open mind as I do have, on this matter.

So as you go along without belabouring the point, there needs to be some discreteness and some tidying up with this configuration of the dispensation of powers, policy and the different aspects of the TTRA operation. I also see a clash between clause 9 subclauses (1) and (2). I would also like to see at the end of it that there be some room, some statutory provision made for public complaints. It is not enough to say in a matter of this exercise, Madam Minister, to leave it up to the CEO to receive complaints. He might very well be part of the problem, and as Sen. Annette Nicholson-Alfred said, you look as if you are breaking up the public

service. But whether that is so or not—and if one of the key objectives enunciated by the hon. Minister, is customer satisfaction, you have to articulate that in statute. You have to make it manifest in statute by putting another clause: There will be a complaints bureau and so, just as we did.

I remember when the Trinidad and Tobago Telecommunications Authority came here. We argued for such a provision and I made the amendment for a complaints section. That would justify your concern about consumer service. So we need that. We really need that.

So all in all I would like to see a diminishing of the clash between the two forces. I would like to see a softening of the hearts and a better spirit towards compromise and negotiation in the country's interest, and perhaps if you settle now you could come back at a later time and renegotiate. That might be a provision, create a protocol.

I enjoyed listening to the previous speakers; I have learnt a lot. I learnt something about monopoly too. But I think in the end of it, we have to come to a reasonable outcome rather than having this protracted divisiveness that is doing the country no good.

Thank you very much.

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Thank you, Mr. Vice-President. I want to join this debate at this time because I think that during the course of the debate a number of Senators raised legitimate concerns about a few issues. An issue was raised around the process, an issue was raised around the rights of workers and an issue was raised around governance and the governance issue.

I want to begin where we always begin with matters of this nature. A government comes to a population and says to the population, “We have a plan. Whether you accept it or not, this is the plan.” This Government said to the people of Trinidad and Tobago, “We have a plan.” The plan that we have requires us to do certain things. In the context of delivery where delivery today is an issue, you have to review the institutions of delivery in order to achieve that particular objective. But what is the process by which you do that?

I want to make two important statements at the beginning of this particular exercise. The first one is the question of the establishment of a Revenue Authority in Trinidad and Tobago was part of a specific agenda. You would recall that this Government did reform of the financial services sector, and in so doing, how did

it achieve it? It basically set up a committee of experts who basically looked at what we had, understood where we were trying to go and made recommendations about how we would get there. In the case of the Revenue Authority a similar approach was used.

In 2002, the Cabinet appointed a committee to examine the feasibility of establishing a Revenue Authority in Trinidad and Tobago. The members of that committee were Mr. Gordon Deane, chairman of the committee who, at that time was the director of the Trinidad and Tobago Chamber of Industry and Commerce, he was representing business; Mr. Randolph Kong, former chairman of the BIR and a former permanent secretary in the Ministry of Finance, retired—I make the point, because those who would give the impression that this was some secret service, this is not really correct. We had Ms. Michal Andrews, an accountant/consultant and as you all know she was responsible for the development of part of the VAT system and also a part of the committee was Ms. Marva Lee, former Commissioner of Inland Revenue. Mr. Nassim Mohammed, a legal person, Chief State Counsel attached to the Board of Inland Revenue; Mr. Ralph Newton, Deputy Comptroller of Customs; Mr. Lennel Chariandy, at the time advisor to the Minister of Finance on customs matters; Mr. Fitzroy John, at the time legal advisor to the Comptroller of Customs and Mr. Vishnu Dhanpaul, at the time director of co-ordinating and monitoring unit in the Ministry of Finance.

This is the group of individuals who were charged with the responsibility of looking at this assignment to determine whether it was feasible to establish in Trinidad and Tobago a revenue authority. The committee has also given us a specific approach.

2.30 p.m.

The approach was that they could not determine whether a revenue authority was a solution unless they fully understood the problem, and therefore, in order to accomplish that particular objective, they had consultations with a number of relevant people. They held consultations as a group with the Board of Inland Revenue—the board itself—Customs and Excise Division, the United States Internal Revenue Service and Project Manager for Trinidad and Tobago.

You will recall, Mr. Vice-President, that since in the days of ex-minister, Wendell Mottley—what year was that?

Sen. Dr. Saith: 1991.

Sen. The Hon. C. Enill: 1993—we were having challenges in the Customs and Excise Division and in the Board of Inland Revenue, and we had an agreement with the US Customs and with the US IRS, where they were

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permanently established here and was in fact working on, what I call process re-engineering. How do you make this process better? In fact, in many instances the reason we were able to have continuity in service is because they were there.

During my term as an ex-minister in the Ministry of Finance, I had eight changes of leadership in four years.

Sen. Dr. Rambachan: Eight changes?

Sen. The Hon. C. Enill: Eight changes.

Sen. Dr. Rambachan: Which leadership?

Sen. The Hon. C. Enill: Customs leadership.

Sen. Dr. Rambachan: Why is that?

Sen. The Hon. C. Enill: That was so, because the public service operates on this basis. We talk about performance, performance management, but in practice it cannot happen. There are two reasons why it cannot happen. The first one is that many of those who are involved in the process of process management do not understand the process, and if it is not done right you interfere with the promotion of other people. So let me tell you what I did.

We had a situation where I had about 172 outstanding matters, and the outstanding matters had to do with the filling out of the forms. This was going on years and years and years, and it was creating all kinds of issues. So I basically said to them, "Hear what, give everybody a 3 and get it out of the way." They gave everybody a 3 and got it out of the way. In doing so, persons were selected on the basis of seniority and not performance.

An important feature about the system is this. Anyone who gets either a 1 or a 2 has to go to an inquisition to defend that. Anybody that gets a 4 or a 5 similarly, has to do it. So the practice has been that most persons who are evaluating others take the easy way out.

Sen. Dr. Saith: Box 3.

Sen. The Hon. C. Enill: Box 3. Other persons may have different experiences, but that is what I have seen, that you end up with a system where seniority is what governs promotions. That is why for example, you had a situation in which in a particular period of time you had eight individuals, who on the basis of seniority within the service, were in fact required to lead the organization, and I can tell you that is a horror story. Because one of the instances we had is where a particular comptroller basically told the US team, "I don't want

all yuh here, you know. Meh nah no what all yuh doing here", and created a series of activities and interventions that we had to intervene in.

The other one was one in which there is a diplomatic arrangement work we have where ambassadors get their cars duty free, and the Comptroller decided that he did not like that. So they called to find out whether or not he was speaking on behalf of the Government and changing policy. The problem with the Comptroller's office is that it is independent in its own right, and once the person is confirmed in the position, you have no say. You do absolutely nothing. So, for example, the Cabinet in looking at the energy sector recognizes that you have situations in which temporary imports of rigs coming into the country, under normal circumstances if you stay here for a very long period of time, they have to pay VAT.

Sen. Dr. Rambachan: Are you looking at a case against performance management?

Sen. The Hon. C. Enill: No, I am not. The case I am making is that while we talk about it—[*Interruption*]

Sen. Mark: [*Inaudible*]

Sen. The Hon. C. Enill: Yes, he is—because of the system in which we have introduced it—that is the point I am making—does not give us sufficient tools to manage a successful outcome. That is the point. Not that I am against it, I am for it. So that in order for them to understand the problem, the committee held consultations—and I was at the point where I was talking to the Project Manager for Trinidad and Tobago; Inland Revenue; Customs; the District Revenue Office; the Chambers of Commerce—all of them; the Manufacturers' Association—most of them; Tax Practitioners; Tobago House of Assembly; the Public Services Association, representatives for the Customs and Excise Division and the Board of Inland Revenue; the Centre for Criminology and Criminal Justice—Prof. Deosaran; and TTPost. The reason that we wanted to understand this was to ensure that the widest possible group of people were involved in the process, and we were able at the end of the day to come up with something that made sense.

After the consultations were done, there was consensus that the Customs and Excise Division and the Board of Inland Revenue needed reform. That was a consensus. The concerns that were identified among others were as follows:

- Deficient human resource management. That is a function of how we approach two things.
- The recruitment, the filling of vacancies, and of course, the performance management system.

Sen. Dr. Rambachan: Training.

Sen. The Hon. C. Enill: Training is one element of it. Let me tell you something. Since Gordon Draper days, we have had this notion within the public service that you can train people and that is the answer. That is not so. When you train people, unless you have a system of rewards and sanctions that is actively promoting an attitude to change behaviour, then it does not really do anything for you because there is nothing in the current system that allows you to do that. Let me give you an example. No, let me not give you an example. I will come back to that. Let me just deal with these issues.

- Inadequate management capability, accounting and training;
- Inadequate staff development, training and accountability;
- Lack of control over and accountability for budgetary allocations;
- Inadequate employee compensation packages;
- High incidence of corruption and corrupt practices, especially within the Customs and Excise Division;
- Inefficient systems for internal investigations and enforcement;
- Inadequate information, exchange and co-ordination between the administration of the various tax levels;
- Poor customer relations;
- Anti-business rules and regulations;
- Lack of appropriate information technology systems;
- Poor physical infrastructure and accommodation;
- Inefficiencies in the legislative framework; and
- High incidence of evasion fuelled by the perceived inequities in the system.

These are not my recommendations. I am simply repeating what the committee in its deliberations, in its interactions with all of these individuals basically said to us, and the recommendation of the committee was as follows:

The committee is of the firm view that given the problems currently experienced in the two revenue divisions together with the benefits that may be derived from a revenue authority, that a decision should be taken to establish without delay, a Trinidad and Tobago Revenue Authority.

That recommendation, Mr. Vice-President, was made in August 2002, that it should be done without delay.

Once you decided on that however, there were a number of issues that arose. One issue had to do with the very specific nature to have tax collection, the very specific nature of how you will treat with an institution that has revenue collection activities, but at the same time, can find itself in a situation where individuals who have to serve as part of its basic system are not involved in people's business. That was a concern, and what we did is—and let me deal with it immediately—we looked at the models around the world and basically came to the conclusion, that based on where Trinidad and Tobago was benchmarked and where we wanted to go, that the Canadian model was a model that we should actually learn from.

In fact, there were a number of models that we actually visited. You had Canada, Tanzania, Guyana, Singapore, and I believe Jamaica, and the context of looking at that, when we spoke with the union, they told us that their representatives in various countries have given them various experiences. One of the things we understood about this is that depending on the value of the revenue collection versus border control that you placed on this authority, its forms and its structure will change. But let me deal with a question that came up and continues to come up, that in fact creates some difficulty for some of us. It has to do with the responsibilities of the board, and let me explain how the Canadian model deals with that. The Canadians suggest that the responsibilities of the board are as follows—and I believe that this is what we were attempting to do in the legislation currently before us.

- The board is responsible for overseeing the organization and administration of the agency, and the management of resources, services, property, personnel and contracts;
- The board is also responsible for the development of corporate business plans;
- The board is however, precluded from directing the commissioner or any other person on their duties under the various tax legislation. Further, the board has no access to information on individual taxpayers.

That is a feature. Because you have to recall that under the Constitution, under the Exchequer and Audit Act, the Minister of Finance has very specific responsibilities that the Minister is required to carry out on behalf of the Executive and the accountabilities and the responsibilities are in fact that of a Minister.

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Therefore in the exercise of that function, the Minister must have some responsibility and must have some say in how this is managed. This notion that seems to be gaining popularity in some quarters about the fact that you are given a constitutional mandate to manage, and then you want to basically use the Parliament in a sense to do functions that are basically Executive functions, does not seem to make sense to any of us, Mr. Vice-President, in a situation in which the Parliament has oversight on all of these institutions. How is that so?

In the first instance, when a budget comes to the Parliament and the estimates of revenue come, it is the Parliament that must approve it. Within that context, that represents the receivables, that represents what you say we are going to do, and on the basis of how the institution works or does not work, you can determine at the end of the process what is actual, what is not actual, and you could deal with it in that particular context.

2.45 p.m.

Mr. Vice-President, the legislation is seeking to really preserve the integrity of the system by saying that there would be very specific functions of the board, separate and apart from what normally operates in a private sector organization. In a private sector organization you can do it differently, because there is no issue with directors having access to information within the context of the organization.

Sen. Drayton: You made mention that you bring the budget to Parliament, but when you do you bring it as a money bill and we really have no say. We can talk all we want on a money bill, but we cannot vote it down. We can vote it down, but you can still bring your money bill under the very Constitution. With respect to the reports that you are speaking about, some of them reach here 17 years after the due date.

Sen. Prof. Deosaran: I think what you are saying makes good sense, up to a point. I would not like to give the impression, as you mentioned it, that I support the idea that Parliament should overtake the work of the Executive. I was seeing Parliament as serving the function of fact gathering in a bipartisan manner, that would eventually assist the Government, at least, in the present structure of things.

Sen. The Hon. C. Enill: Let me make it clear that I was not talking about you; I was talking about another Senator.

Insofar as the comments made by Sen. Drayton is concerned, she is correct, but until such time that we change the Constitution, then I am afraid we have no

choice. Let me just make the process point. If something is not working, we should try to change it, but we have to change it within the context of the rules, and the rules that we currently play by is the Constitution.

Sen. Drayton: Then, if I may, Minister, given all that has been said, I think we should play by the rules and change the Constitution to deal with our service commissions. In other words, let us go through the process, and that was what I said yesterday. Let us go through due process; do it in a proper way that, in the long run, it is in the interest of our citizens and it protects the Government from all sorts of allegations and what it is experiencing right now.

Sen. The Hon. C. Enill: The only way I would respond to that, Senator, is this: We cannot make a determination on that; it is the people that would do that. In order for us to change the Constitution there is a two-thirds majority required. Unless a government has that or unless the Opposition is prepared to agree with a government on those changes, it will not occur. The difficulty you have is that when you are called upon to govern, you are called upon to govern on the basis of what is available to you. Therefore, in circumstances like this, with what we are doing here today, the Constitution provides that for this to go forward, you must agree, and if you do not agree, it cannot go forward. That is how it is. So in a sense there is a check and balance within the system in which you have the ability to say to us, "I do not agree with this; I will like that change," and to the extent that we can facilitate it, we will. There are some times when we cannot, for whatever the reason.

Even when we identified those broad specifics about concerns, the committee also did another exercise in specific categories. For example, they looked at human resource issues: Board of Inland Revenue, Customs and Excise—I give you two just to make the point—in human resources, little or no succession planning, both places; lack of career path development, both places.

Let me tell you why that happens. I run a ministry. There is a thing in the public service called "acting". I have available to me an individual who specializes in this particular area, doing a great job, functioning properly. I come to work one day and the person is no longer there. "Where dem?" He has gone to act in the Ministry of Health.

Hon. Senator: Who sent them there?

Sen. The Hon. C. Enill: Not me, I came to work; I found them missing. That is where they are within the system; that is how the system works. The system says that this large public service organization you have, every individual at every

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level has the opportunity to go in a different position, once it is available. [Crosstalk] So the job that is being done, properly at this time, now falls to somebody else and we are not sure who this person is, because the system has to go into its database, identify a number, an individual who meets the particular criteria, he goes across and I end up with this individual.

I have had situations, for example, in my own experience, where in the Debt Management Department of the Ministry of Finance, somebody shows up one day and says, "I do not know anything about accounts; wha I doing here?" These are realities; this is getting involved in the day-to-day management of the activity.

The committee also looked at issues of human resource and the important issue of the management information systems. We have a situation right now where the systems do not talk to one another; so you can have a tax liability here, you can have a tax payable here, we could be owing you money here—that is the payable—and on the customs side you are owing us money, and the systems do not talk to one another. There could be no netting out, and the law does not allow it as well as it is currently structured.

Some of the issues that they identified: Absence of appropriate and fully functioning management information systems, both places; obsolete IT systems, hardware and software; inadequate number of computers, similarly. Then they went into business processes; that is a function of efficiency: Absence of an institutionalized internal affairs unit. One of the things that an institutionalized internal affairs unit does is to explain: How come, as we have seen in some instances, on a cashier's salary, you own four Mercedes Benz? I cannot do that. Therefore, there are some gaps within the system, based on consumption patterns of certain individuals and we have evidence, in some instances, where these individuals supplement their lifestyle on the basis of cutting deals X, Y and Z. That is a challenge.

The business processes also talked about the question of reluctance of persons to report officers due to a lack of confidence in the system. Inappropriate mechanisms for monitoring systems—this really talked to the fact that the people are not necessarily bad, but that the system in which they were did not allow them to do the thing they wanted to do, therefore, you had to look at the system.

They also looked at infrastructure, legal and social. Again, the important issue in all this was that the Revenue Authority, in its concept, in its form, in what was being attempted, there was no difficulty between the union and the Government. Let me tell you where the difficulty arose; it arose when the method of transfer to

the Revenue Authority was changed. It was changed because between the period 2002 and today, we have had experiences with other institutions and we have seen where the appropriate thing to do is the method that is being contemplated.

During the course of the conversations, one of the biggest issues that came up was how you deal with employees. It is a fact that public officers are the persons who deliver goods and services on behalf of the Government and, therefore, the Government has a responsibility to look after them.

Mr. Vice-President, as I said on the last occasion, there were discussions going on between the Government and the PSA to deal with the issues that were, in fact, identified. One issue was the question of successorship. The union is of the view that notwithstanding the fact that employees have a choice, to choose who represents them, that choice should not be given to them. We hold a different view.

Our view, at this point in time, is that we would do absolutely nothing to interfere with the union's ability to represent their people at the TTRA, once that is the wish of the employees. We have also agreed that between the transition issue and the certification issue, the union will continue to look after the interest of their people.

The issue which arose had to do with how you treat with employees. There are basically three options available. First of all, the Government has agreed that any employee who has been acting in a position for two years and more would be confirmed in that position, because we know that in the service you can be acting for years and years and years. When we had the discussion, the union pointed out to us that if you decided to put a person back in his substantive position, he could find himself in a position where there could be income lost. We did not think that was fair. We decided that once you were in a position for two years and more—
[*Interruption*]

Sen. Dr. Rambachan: That is a recent development?

Sen. The Hon. C. Enill: We also said the following things: For years since 2002, we have been training up persons for positions in the TTRA, because we knew, based on the kinds of challenges we were having—let me tell you the challenges we had heard: Significant vacancies. The vacancies were: Audit, audit, audit, audit. The reason that was so was because the requirement for an auditor, the skill sets required and the compensation packages you had within that range of the public service, you could not get. The consequence of that was you had a system which did not provide you with the necessary skill sets that you needed in order to treat with it.

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As an interim measure, we created contract positions. Sometimes I wonder whether or not the union understands how this worked. We create a contract position and what it allows us to do, is to manage the resource on the basis of some very specific deliverables. We find, in many instances, that qualified public officers have the ability to move across to those positions.

3.00 p.m.

When they move across, you hold the position for them in the public service because that is their position there, but at the same time they get better terms and conditions but more than that, you have a capability that you do not now have. This capability is that you could manage them on the basis of a contract and on the basis of particular deliverables because you are also paying them a premium for that activity.

[MR. PRESIDENT *in the Chair*]

Sen. Assam: When you hold their positions you prevent others from moving up.

Sen. The Hon. C. Enill: That is true, but we also have by policy, a time frame for it, because we recognize as well that sometimes you want to move people from one institution to the other to get a broader experience, so we gave a three-year period. We say if at the end of the three-year period you still want to stay in a contract position, then you must resign because it is not fair to have that position being held for you and the rest of the people—

Sen. Dr. Rambachan: Do you not find three years too long?

Sen. The Hon. C. Enill: The reason we chose three years is because there is a car benefit.

Sen. Assam: [*Inaudible*]

Sen. The Hon. C. Enill: Yes, the way it works, Cabinet would approve a three-year contract position, at the end of that, there is no position so you either have to come back to Cabinet for a renewal or the position goes away and then you revert back to—

The other thing that has to happen is that the employee has to apply for leave on the grounds of public policy—that is the mechanism by which it works—to take up this particular position and there is a lot of that taking place now.

So, Mr. President, and maybe I should read into the record the agreement that was approved.

Sen. Assam: Can you have it circulated?

Sen. The Hon. C. Enill: We can do that too, but let me just raise the points which were in fact discussed.

In the spirit of good industrial relations practice the PSA and the Government should engage in open, meaningful discussions on transition issues relating to the design of the TTRA. To this end, the Government shall present the PSA for information purposes with true copies of the following; the TTRA organizational structure, a statement on the total number of positions on the structure, the total number of permanent positions and the related job titles, the salary payable to each job or the structure; and a compendium of job descriptions re the organizational structure.

Upon request, the employees shall be transferred to other ministries or departments in accordance with public service regulations and relevant existing arrangements between the Government and the PSA.

Existing employees of the Inland Revenue Division and the Customs and Excise Division should have the first priority for employment in the TTRA after consideration of their qualifications, experience, training and aptitude. Because you will recall that you want specific types of skills, you want a particular kind of attitude and they say, well, we would make that available we would see what it is.

Where existing employees of the IRB and C&ED are successful in obtaining employment in the TTRA, they shall be paid benefits under VSEP. You are successful, no problem, we pay you VSEP and abolish the post. Where existing employees are not successful in obtaining employment, they shall have the option to:

1. Upon request be transferred to other ministries or departments in accordance with Public Service Regulations and relevant existing agreements between the Government and the PSA. So wherever you want to go;
2. Maintain their substantive post in the public service, or be transferred to an equivalent post in the public service and where such employee is acting in a post for two years or more, that person shall be appointed to the post; or
3. They can apply for benefits under the VSEP.

The Government and the PSA will be provided with the employment strategy proposed by the Trinidad and Tobago Revenue Authority Company Limited for the recruitment of staff of the TTRA.

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There is an institution right now that has been set up as the transitional organization. Once the Bill which establishes the TTRA—in the interim there are some processes that take place. You have to look at the transition between the two agencies, this is the organization set up to do that, the organization will meet and treat with the PSA and tell them that.

Following meaningful discussions with the PSA, the arrangements will be put in place by TTRAMCOL to engage suitable companies to recruit persons for the TTRA. The management of the TTRA shall facilitate the direct payment of union dues when requested by the employee, and the PSA and the Government shall discuss matters relating to the Voluntary Separation of Employment Plan, but it is understood that negotiations of the terms of the VSEP have to be held between the PSA and the Chief Personnel Officer as is the norm.

This memorandum of agreement shall be valid until a trade union is certified as a recognized majority union in the TTRA. So basically this has dealt with the concerns that had been expressed in which it was being suggested that a number of people would actually be thrown out and would be on the breadline. That is not the case; we have accounted for those who wish to stay, we have accounted for those who wish to go and we have accounted for—

Sen. Dr. Saith: Those who are coming over.

Sen. Dr. Rambachan: [*Inaudible*]

Sen. The Hon. C. Enill: No, it is what the Cabinet has in fact agreed to between the Government and the PSA, it is not a requirement for the legislation.

Sen. Assam: [*Inaudible*]

Sen. The Hon. C. Enill: This was negotiated and initialled and there is going to be a signing some time and we will make sure it is available.

Mr. President, the committee also said that the benefits to be derived—and I want to wind up here because I think that I have addressed the major issue of the governance conflict and that really requires special understanding because of the special nature of the institution and we will have to rethink whether you can achieve the objective that you are seeking. Our view was that because you had to protect the CEO from the board, in a sense, as it relates to people's personal information, that you had to put a mechanism and since the responsibility under the Constitution rests with the Minister, it was our view that was where the buck stopped because also, the Minister will be treated, as I have been treated in the same way as it relates to people's individual business. Ministers do not see that.

Benefits to be derived from a revenue authority. The committee suggested that the benefit that would be arrived is that it would provide a more business-oriented management framework.

Mr. President, I have heard a number of commentators talking about special purpose companies and, of course, they used UDeCott as an example. I am not sure that one can use UDeCott because within the context of the Government, we have other companies. We have NGC, Petrotrin; we have over 100 companies and what they seek to really do is something that cannot be done within the civil service. The civil service as you know, was never set up to be involved in the administration of—let me give you an example of something that I am aware of.

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

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

Question put and agreed to.

Sen. The Hon. C. Enill: Thank you, Mr. President. Benefits to be derived from the Revenue Authority would provide a more business-oriented management framework, will create an environment within which most of the current problems of the board can be effectively tackled and resolved; would provide an opportunity to significantly reduce duplication and administration between the two existing revenue divisions of the Ministry of Finance.

What are the benefits of doing this? One of the benefits of doing this is if you put both revenue organizations side by side; you have legal, human resource, you have corporate, this, that and the other. There is a belief that you can share common services because they more or less do the same thing which is collect revenue; will establish a platform for future changes necessary to meet new demands.

One of the challenges you have in the public service right now; if you look at the estimates of revenue and expenditure, you will see it is some \$9 billion per year and growing. What happens is that their relationship within the ranges must be maintained. For example, you could not in this system get an information technology manager of some repute on the basis of the wages and salaries within the formal public service.

It may very well be, and it is that you require specialized type knowledge and skill sets that represent more of what is available in a private sector institution than in a public service institution. It would provide a bold and unique

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opportunity to better serve the public and at the end of it all, the reason that Government exists is really to provide better service to the people of Trinidad and Tobago.

It will facilitate in the committee's view, a more efficient collection of taxes, foster a better working relationship between the two divisions and provide a structure that is intended to improve the efficiency of delivery in the public service.

There are, Mr. President, other examples where these kinds of organizations actually work and one that the committee looked at was TTPost which was an institution that had some of the similar challenges and today TTPost as an institution is in fact something that has improved services using some of the same individuals within a different structure with all the relevant controls. And, therefore, it is a model that we can, in fact, learn from.

3.15 p.m.

Sen. Mark: Thank you very much, hon. Minister. Mr. President, I wanted to ask the hon. Minister where in the legislation would the customs department and its enforcement functions be located, because when we look at the legislation all we are seeing is revenue collection. We are not seeing in the legislation that enforcement aspect. So if you could guide us there, I would appreciate it very much.

Sen. The Hon. C. Enill: I thank Sen. Mark for raising that—

Sen. Mark: May I just ask one final question? Mr. President, there are several legal officers attached to both the Board of Inland Revenue as well as the Customs and Excise Department, I understand close to 15 or 20, and they fall under the Judicial and Legal Service Commission in terms of their appointment. I wanted to also find out from the hon. Minister how are these legal officers to be treated within the framework of what he has outlined concerning those workers who are monthly-rated within the public service.

Sen. The Hon. C. Enill: Mr. President, let me deal with the first question. One of the early lessons in the Revenue Authority configuration was that the Revenue Authority had a full-scale transfer of customs and excise and revenue into one institution. The current experience today is that interdiction capabilities are not lodged within a TTRA. Earlier on this year in a review of the national security infrastructure based on the report done by General Rusk, a decision has been made that the interdiction piece of customs will go to national security. So that the trade facilitation piece would stay but that the interdiction piece, you

know, the arms, the ammunition, that element of it, would go across to national security. So that those persons who are in that particular arena would be part of the national security infrastructure.

Sen. Assam: May I ask a question? I think Sen. Nicholson-Alfred raised it; about what is enshrined in the Tobago House of Assembly Act in respect of its responsibilities for inland revenue and customs. How are you going to deal with their responsibilities under the Act with the creation of the TTRA?

Sen. The Hon. C. Enill: My information—and I guess the Minister will detail on it, but my information is that there have been discussions between the THA and the group that is now doing the transition issues and that whatever currently exists as it relates to the Tobago House of Assembly and its operations, would be preserved or there would be a mechanism brought back to deal with that. That was one of the issues that were, in fact, dealt with.

Recall, though, that when this Bill is passed, the intention is not to have it immediately effected. What this Bill will do is that it will allow the institutions to start to do some of the work; to do formally some of the things that are required. If, as we go through that process, there is a requirement to make changes, we will come back with them. Those changes, we expect, will deal with issues that we may not have picked up. The THA is a particular one, because there may also have to be amendments to the THA Act as a consequence of that.

But the reason that we are proposing to move the Bill forward at this point in time is because it gives a level of certainty to the actions; it allows for us to start planning, based on this particular Act and it allows us to, in very short order, determine if any changes are required and to get it back to the Parliament in such time that when it finally is in place, what we had hoped will occur, which is a seamless transition dealing with all the issues, would have been dealt with.

I believe that if we are able to satisfy the issues that have been raised, that I would like support for moving this forward and I expect that we would be able to continue the discussions, because, as we have said, what we want to do is to provide the best legislation that we can provide for the benefit of the people of Trinidad and Tobago.

Mr. President, I thank you. [*Desk thumping*]

Sen. Verna St. Rose Greaves: Thank you, Mr. President, and may I wish you a pleasant good afternoon and a pleasant good afternoon to all those here seated. Before I begin, I just want to pay my respects to my friend and colleague,

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George Daniel who passed away yesterday and to offer my condolences to his mother, his wife, his family and friends and to my own community where his mother comes from.

It is with some reluctance that I stand to contribute to this debate. Today, Thursday, April 08, 2010 is the third day that I have had to be in this Chamber with the other persons seated here, spending time listening to discussions, ideas, suggestions put forward and being part of the legislative process, a very important process, if I may say so myself. Maybe I am a dreamer and I know it is outside of my purview, but if I had my way and if there was some way that I could dream, perhaps I would suggest that this should be taken to the vote almost immediately, but I know that we cannot do that. Because I think that the hon. Sen. Enill has just lost his own case. I think by virtue of some of the things that he has put forward, he has said and he has shown a lot of ambivalence and a lot of reluctance in terms of trying to promote this TTRA and saying, on the one hand, we are trying to prevent this, but in some of the suggestions that he has put forward, you know, replicating almost the same things.

What has struck me is that there is so much resistance to trying to get at core issues. We identify problems but for some reason we do not try to get to the source of the problems and to fix them. We are talking change, but, really, it is exchange. I remember, I think it was Sen. Assam, when he said that we are talking about reform when, in essence, it is deform. Because I sat in this Chamber and I heard us talk about the Licensing Authority. We identified a lot of the problems. I experienced the Transport Commissioner virtually throwing himself at the mercy of those of us seated at the committee, begging for help. He was like a man who was drowning, pointing out all the things that he did not have and all the things that could help him in terms of systems and structure that would make his job easier and make his department much more efficient. But we still go around, as I keep saying, putting plasters on sores rather than cleaning out those sores, removing the dead flesh and then applying healing medicine.

Some of us might be familiar with faith healers and the ritual that some very ordinary people go through in terms of cleaning what we sometimes describe as a life sore, where they understand that they must get into the core of the sore and suck the poison out and spit it out before they apply any kind of medicine. But, for me, my experience as a public servant, where I worked in the Ministry of Social Development, the thing is everywhere. It is in health; it is in social services. We have staff who have been temporary for 29 years; permanently temporary.

We have a lack of systems and no structures that work; we have shortage of resources or mismanagement of resources, and rather than sit down and buckle down and say, this is what needs to be done and therefore we are going to do that, we then say, well, everything will be solved by contract labour. We blame the unions; it is because the unions are there that this is happening. But there are workers who genuinely want to work and who try to do their best, and I can proudly say that I was one of those workers, but the system just does not allow for you to function.

What we need to do is really try to deal with how do we address some of those problems at the core, or else we would find ourselves getting rid of all the government ministries, all the departments; sending home all the public servants and simply bringing in contract workers and pretending that things are more efficient.

You know, I was sitting here yesterday and what kept coming to me was a slogan that is used when they talk about crime; this whole thing of "Fix Me First". We are trying to "Fix Crime and the end of "Crime" "m-e" was "Fix Me First". Now what is that "First" about?

I want you to give me a little leeway here, because I want to talk about my father, George Phillip Lynch, a Montserratian native but a citizen of this country who came here as a young man and worked very hard to take care of his family and to help and to contribute. He worked at T&TEC and he was a shop steward. He instilled some very good work ethics, not just in me, but in all the people who worked with him.

The reason I want to refer to my father is because I want to talk about some of his wisdom as it related to that phrase of "Fix Me First". My father with his small salary would always ensure that in our house we always had good mirrors. I never really understood that there is a difference in mirrors. I thought a mirror was a mirror, but he insisted in buying the very best mirrors, because he understood that some mirrors would distort your reflection and others would give you a clearer picture.

The reason that my father got those mirrors is because there was a lot of name-calling in communities; a lot of adults who, one would think would have known better, would say to children: "how yuh black and yuh ugly and yuh stupid and yuh nose big and yuh head picky" and all kinds of derogatory things. Children themselves would be very cruel and I am sure all of us here would remember—and I mean no disrespect when I say this: "Coolie, coolie, come for roti, all de roti done. Nigger, nigger, come for jigger, half-past ten", or whatever time of the day it would have been.

I do not want anybody to bawl "relevance, relevance, 35(1)" because the relevance I am coming to. When those things were done, a lot of us never paid attention to what the long-term consequences would be and we are now seeing some of the long-term consequences of that name-calling. Because it has brought us to a place where we do not want to look at ourselves, which takes me back to my father putting me in front of the mirror and he would say to me, "Look in that mirror. I want you to look at yourself. Look at yourself in the eyes. Try to understand who you are. Try to appreciate everything about you. They tell you 'yuh' head big, understand why 'yuh' head big. Look at how you look like me. Do you love me with my big head? Then you must love yourself with your big head."

He took it further in terms of, "Try and understand yourself; understand your strengths but also understand your challenges and try to engage with those challenges, so that when you make a mistake or when you do things that are wrong, you can come to terms with it and not seek to blame it on somebody else; not seek to deflect and to redirect what you have done wrong, to everybody else."

I say all of that to take me to something that Sen. Joefield said in his delivery yesterday. He was talking about the paper: "An Overview of the Proposed TTRA" by Dr. Andre Vincent Henry. Sen. Joefield was talking about the deficiencies identified by the committee are more applicable to the Government than to the Board of Inland Revenue and the Customs and Excise Division. He named four of them.

1. The high incidence of corruption and corrupt practices, (applies to this Government).

3.30 p.m.

- (2) The lack of control and accountability for budgetary allocations (applies to this Government).
- (3) Inadequate management capability, accountability and training (applies to this Government).
- (4) Inefficient systems for internal investigation and enforcement (applies to this Government).

And he had here in bold:

All these failings apply to this Government. We may as well enact a Trinidad and Tobago Management Authority that privately manages the country and makes the Government redundant.

Mr. President, it is very important for us to understand who we are as a people, as a nation and to like ourselves enough to trust the skills and talents of our people. It blows my mind when every time we try to enact anything, we get all kinds of examples from everywhere else and we pay little or no attention to what we have here and how we as a creative people could bring things to work for us in ways that could help us.

I do not understand too much about the legal jargon. I have tried to read the Bill and I think that my colleagues have addressed many of the issues therein. They have talked about accountability, efficiency, equity, fears and false accusations of corruption, policy issues, erosion of the Constitution—several people have mentioned that—Government's ability to deform rather than reform, the way the unions are being set up to fight one another to get members to join them; who has the power to hire and fire; to change regulations; the crafting of the legislation; and one Senator described this crafting of legislation as an exercise in cut-and-paste, which inevitably would result in weak legislation, weak systems, lack of monitoring and evaluation, lack of oversight and certainly what we have now, a weak justification of the need to establish this new authority.

As I said before, if I had my way, the vote would be taken now; but I do not have that power. I know that people have suggested several amendments and I hope that those would be taken in good faith and, if this Bill is not withdrawn totally and reconfigured, we can only hope that we come up with something that may work for the citizens of this country.

One of the things that I am quite clear on is that people who are comfortable, people who have, do not spend too much time worrying about people who do not have and their levels of comfort. Sometimes it is easy for those of us who do not have those anxieties to take decisions without thinking about the people directly affected by it.

Today, I do not want to speak too much about the specifics of the Bill. I want to speak to some of the concerns that the workers of the Customs and Excise Division and the Board of Inland Revenue have shared with me and written to me about. I think it is important for us to understand. I also want, through you, Mr. President, to talk to every worker who is paid by the Government.

The reason I am doing that is—we may be surprised that many people watch this Parliament Channel—that I want to talk to every worker because I want them to understand that this is not just about the Customs and Excise Division or the Board of Inland Revenue. This is about them—every worker in Trinidad and

Tobago on the payroll of the Government of Trinidad and Tobago. Tomorrow this could be you. Put yourselves in their place, try to imagine.

Mr. President, I want you to allow me to read a few of the things that the staff of the Customs and Excise Division and the Board of Inland Revenue sent and said to me.

- (1) Present staff of Customs and Excise, 462 officers and 242 guards have been woefully short over the last five years. This has resulted in over working and various challenges as staff has had to double up. No family life, denial of vacation leave and generally mental tiredness.
- (2) Employees spend long hours on the job and they have sentimental attachments and values to the job.

This is what they have said; not what I have said.

Yet, we have heard the Minister boast of transition and we have to ask ourselves what is the understanding of transition and what is the company that is handling the transition looking after? Is it simply about the laws and the moving around of human resources? How much of that has to do with preparing workers they are trying to displace to cope with that displacement? What is being done with and for the workers?

- (3) Ministers in the Lower House, using a "broad brush" approach, have labelled employees of the Board of Inland Revenue and Customs and Excise Division as corrupt.
- (4) This has destroyed the spirit and psyche of the workers.
- (5) Who will now employ these workers who are deemed corrupt? We are now treated with scorn as if we are suffering from leprosy.
- (6) The alternative job is customs brokerage, but we will have to start at the bottom of the ladder and write and pass new exams. Can we compete with the established brokers?
- (7) Even in that field it will become overcrowded since very shortly there will be the electronic filing of documents.

The workers continue:

- (8) In both BIR and Customs we have several young people who are married with young children and mortgages over their heads. How are they going to survive? There are some instances where both husband and wife belong to the same organization or to one or the other.

- (9) How will our children see us? What effect will this have on our children who wrote exams—and they listed the exams—both at home and abroad.

I am saying that it is not just the workplace that is being dismantled, it is the homes, the families, friendships, relationships, people's sense of self—and we talk of transition.

Again I am asking: What does this company do and how involved is the union in this transition process? Who are the social workers, the psychologists and the people who understand those issues of displaced workers? Where are they? And what is being done?

I found it interesting yesterday, when Sen. The Hon. M. Browne was waxing warm as he spoke of the importance of the creation of institutions and about all conversations being theoretical; that all institutions must change or they become dysfunctional, and I was convinced that he was not simply talking about the TTRA; that perhaps he was talking about a marriage; those families that may become dysfunctional. It sounded very much to me—

Mr. President: Senator, I heard someone else do it a little earlier when I was listening to the radio, but the hon. Minister should be referred to by his title, that is the Minister of Trade and Industry.

Sen. V. St. Rose Greaves: I apologize. I am sorry. The Minister of Trade and Industry, Sen. The Hon. Mariano Browne. I do apologize.

When the Minister was talking about dysfunctional relationships, I immediately thought about what was likely to happen to some of these families. As a social worker, I have had first-hand experience with people who have been displaced and some of the problems that occur in those relationships.

I also heard the hon. Minister say that institutions or organizations do not have memories and that when we leave this Chamber, there will be nothing left but the Chamber. Those things really disturb me. I know that this building has a lot of memories. If we go back to 1937, 1970 and 1990 and all the things that have happened in our country, particularly when people are dissatisfied; when there is worker unrest, the conditions that apply today, we would understand that there is memory etched in the walls, the floors and ceilings of this Parliament Chamber. It will be remiss of us to forget that.

We speak here; we make laws here; we work here to direct the country and I do not know that these objects here, as inanimate as we think they are, those

words and the things we do, do not continue to be here even after we have left. This is a symbol of our democracy and it is important for us to understand some of those issues.

I continue with a few of the things the workers said:

- (10) Many years ago Cabinet established a Customs and Excise Welfare Fund. Some of the moneys collected from customs fines—I do not know the legality of it; this is as I got it—are deposited into this fund. Moneys are then paid out to employees who are in unfortunate situations, for example, sickness, death, house fire or any other disaster. It also funds sporting and cultural activities for the organization. It was to be used to pay for rewards, incentives, et cetera.

With the TTRA, nobody has told them whether the fund will roll over into the new organization. That is one of their concerns. If not, what will be provided for them in terms of going to the TTRA? I understand this concern because we all know about sick children needing help to go abroad for treatment and families having to raise money.

- (11) Again, it is to be noted that there is no established employee assistance programme in the Customs and Excise Division. As a result of this fallout, how will workers obtain counselling?
- (12) A “brethren” initiated by Trinidad and Tobago in the form of the Customs Easter Tournament was developed 25 years ago. At this tournament, from throughout the Caribbean, people came together for sporting activities and this has developed a very strong line of communication as we cannot put faces to names and it provides a good platform for sharing of vital job-related information across the region. They are not sure what will happen with this dismantling of the Customs and Excise Division and they would like to hear something about that.

To many of us these concerns may sound superficial, but this is from the people who are actually being affected by the decisions we are making. To them this is crucial; they are depressed; they feel rejected and they are crying out for someone to do something.

- (13) Because of the long hours they spend on the job, employees have hired maids and handymen to do their household chores. If employees are dismissed, it would result in the maids and handymen also being dismissed. How many families will now be affected? Where would

these people get jobs as we have already heard that store clerks are being retrenched? This includes vendors, hairdressers, beauticians and people who provide personal services. They would also have to go on the breadline. We have already had that experience in Trinidad and Tobago.

I ask the question; not just of the Government, but certainly of the union: Has any gender analysis been done in this entire process, which has been going on for a year and a half we have heard, to try to understand how these decisions we are taking would affect men and women? How many women are going home? How many men are going home? What would their needs be and how do we plan to support them and what are some of the things we need to put in place?

3.45 p.m.

They continue:

- (14) We are in a group insurance with the PSA, since there would be a new organization and PSA will not be automatically going over, the insurance would cease. What would become of our insurance coverage since many of us have cancelled our private insurance policies?

Yeah? That is what they are saying. The employees are being labelled corrupt.

- (15) ...Can a mere name change 'uncorrupt' the said employees? What guarantees do we have that the new persons coming into the organization are not already corrupt or will not be corrupted?
- (16) How will the employees feel to work under someone who is new and has—less experience than them and little or—no technical competence? Customs work especially, is something that is learnt coming through the ranks. How can someone new make a decision on which he/she has no knowledge of the issues?

Some of them will also feel that they are going to be kept on to train the new employees and soon as the new employees have been trained, their contracts are not going to be renewed. That is a real fear.

- (17) Employees right now are laughing stock as they are experiencing challenges in obtaining visas and obtaining loans from financial institutions—because the word is out that they are going to be going home—Customs Clerks and Brokers are now mocking us by offering jobs as messengers and truck drivers.

(18) In general workers are depressed and demoralized. We see that we are being thrown into the permanent den of poverty. We view this TTRA—or the RAT, as they call it—as harsh and oppressive, if not demonic and satanic. We see it as jobs for the boys. We are very concerned that we will be further pauperized by rising food prices and the property tax.

Mr. President, I am picking up so much fear in these workers. I have taken time to speak to some of them and there is a level of fear. There is fear in general in the society, but I am seeing grown men and women so fearful.

I heard somebody complain about the fact that they are marching and they are protesting. I have seen people who would never have marched in this country before, come out and march with the PSA on this situation. I have seen people who would normally sit in their offices and not be bothered with the PSA, take the pavement; people whom, I am shocked they would stand up, because they are so afraid of what is going to happen to them.

There is also the question of trust. There is a lack of trust that we are not addressing. The Government keeps saying things and giving assurances, but because of the level of mistrust, so many people have been let down and disappointed from time to time, trust has become a major issue.

The establishment of this TTRA for me, presents us with an opportunity for deep reflection in the society. There is a challenge, both to the Government and to civil society organizations, in terms of establishing safety nets for people and in terms of cushioning what is likely or might happen to some of these people. It is okay for us to say they are going home with a lump sum. We know the experience. When people have a lump sum and they have mortgages and debts to pay and there is no practice or no preparation for management and nothing to hold them, we know what can happen. I think it gives us an opportunity to reflect as a society and to reflect on some of the things that we have done in the past and what the outcomes have been: BWIA, Caroni (1975) Limited, the Regional Health Authorities, the impending local government reform and the junior secondary school system.

We have to go back and look at some of the decisions that we took and see how they played out for us in the long term, because we are now feeling the effect of what happened when we took a decision to go the way of junior secondary schools and not consult and try to come up with the best fit for our society. We have an opportunity here to really reflect, a reflection that will allow us to fix ourselves as a society, in terms of recognizing our strengths, our challenges, how

we have treated with some of the challenges that we have had before, how successful they have been and those that did not work and how we are going to cope with those losses and so on.

The struggle for bread and butter, for identity, for preservation of one's family and one's humanity, to hold on to a living wage, for the ability to provide basic amenities, to preserve your right to be heard and to fight to preserve your democratic principles, is not one to be trifled with. Our ancestors, those who went before us, fought long and hard. Some of them gave their lives. They paid with their blood and it is very painful for me and I am sure for members in the labour movement, to sit around and see how very easily labour can be swept aside and disrespected.

Many poor people's children—a lot of people who came from working class families and got an education and consider themselves to be now professionals and can get into leadership—are so intent on distancing from their roots in forgetting the sacrifices of their own parents, can sit in this Parliament and come up with rules, laws and all kinds of authorities that fly in the face of those basic principles; those very things that allow for them to have an education and to be in a place where they now have the opportunity to exercise power, but they take that opportunity to abuse power rather than exercise it.

Sister Ella Andall has a song that she sings: “Awake Warriors Awake, J’ouvert Morning Come.” “Awake warriors, awake, j’ouvert morning come. Let this be a j’ouvert morning for all those workers out there.” Time to wake up! Do not wait until Customs and Excise Division goes down, Inland Revenue goes down, RHAs go down, everybody goes down and then to say, like we do with crime: “But ah never thought it would ah happen tuh me.” I watch the news and I am always amazed when another child is kidnapped or somebody killed and I hear people weeping and saying: “Oh God! Ah see it happen in the society, but ah never thought it would ah happen tuh me!” “Awake warriors awake! Let this be your j’ouvert morning.”

We as a society, I believe, have misdiagnosed what ails us. Again, if we go back to the reasons for not wanting Customs and Excise and wanting the TTRA, and if we go back to the reasons why we did not want the Ministry of Health to stay as it was and we wanted the Regional Health Authorities, we keep misdiagnosing, because we are not prepared to watch in that mirror and to admit to our mistakes, to take our challenges head on and to see how we can get to the root; get in there and fix it.

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Under-staffing: Look at the police. You only have to go to the Carenage Police Station and you ask yourself: Why are we blaming policemen for not functioning? Go to the police stations and see where people have to function. Go to the Licensing Authority and see where people have to function. Go to several of these places and see where people have to function. Go to St. James Licensing Office and ask yourself: What does it take to treat people with dignity and respect? How can I be expected to perform, do my job and produce and to be humane to the clients who are coming to me, when I pull my drawer there is a rat in it, eating my sandwich or when I sit on a chair, it falls down?

I worked in welfare. People who are sick would come to us and they would go into a fit and would have to drop on the floor and lie on that dirty concrete, because there was not even a bed. When I suggested that we purchase a bed, I was told that putting a bed would encourage people to come in there to have sex. That is what I was told. That is how we disrespect people, yet we cannot understand when the young men, who shoot and kill each other and get involved in crime, talk about “dey dissing meh”. I hear people sucking their teeth. You all can suck your teeth, your children are well entrenched. They can suck their teeth.

Hon. Senator: Relevance.

Sen. V. St Rose Greaves: It is pertinent and it is relevant to what I am talking about, because I know that a lot of these people, when their world falls apart, when they lose their jobs, we are going to have to pick up the fallout from that. We have to understand what this word “disrespect” is. It is not just somebody “cussing yuh mudda” or anything like that. When the young people say “Dey disrespect me.”

Sen. Dr. Saith: Senator, thank you very much for giving way. Your contribution would be very powerful, much more powerful, if it is not in the context of the facts that now exist. Nobody in the authority, nobody now there, will go home. They will have a choice of going to the authority. They will have a choice of asking for a transfer to some other ministry and if they do not want, they can remain in their position. But more than that, if they were acting, they would be confirmed in the position in which they were acting. Not a single person will go home in this transfer. The only people who will go home are people who automatically say: “Look, I taking the VSEP. I am 59 and I want to go home.” Nobody is going to be forced to go home. In the circumstances, I think a lot of the plea that you are making really does not apply now, given the agreement that has been made. I thought I would put that out.

Sen. V. St Rose Greaves: Thank you very much for your intervention and correction. I said earlier that there is a huge question of a lack of trust. I think that because of that lack of trust people are not convinced. Nothing has been signed. *[Interruption and crosstalk]* Mr. President, I seek your protection.

Sen. Dr. Saith: Thank you Senator. I take the point, but the reality is that there is now a signed agreement. It has been approved by the Cabinet. It is part of the Cabinet's record of the country, so there is. I am sure the President of the PSA will be able to communicate with members, the fact that there is an agreement that has the force of law.

Sen. V. St Rose Greaves: Thank you very much, again. I also said that issues of transition, in my humble opinion, have not been properly handled.

Hon. Nunez-Tesheira: You have moved away from that.

Sen. V. St Rose Greaves: No, I am not moving away. This is all part of what I have been saying. Mr. President, through you, I would continue with my contribution.

We are believing that it is only when people go home that there are problems. *[Interruption]* No, no, I am saying that we believe it is only when people go home, any kind of—I talked about workplace dislocation, disruption of friendships and the stress that people have been under. Those are things that we still have to deal with in that transition. Those issues, whether people are given options or not or whether they come back, I am suggesting that we must still deal with some of those issues in the transition.

Hon. Nunez-Tesheira: We are.

Sen. V. St Rose Greaves: I asked what was going on, in terms of the transition. Nothing was said about dealing with some of these issues that the workers themselves raised with me.

I would like to finish my contribution, if I may, Mr. President. There are so many contradictions.

4.00 p.m.

Mr. President, there are so many contradictions, and we have to understand why there are so many contradictions. It is interesting that there are persons who are very disturbed that I should even raise some of these issues, but one sometimes has to ask, why?

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I want to speak to the trade unions in a particular way, while I am talking to workers. We gave up our right to march, and many of our union leaders themselves have disappointed us, and this is something we have to pay attention to.

Hon. Senator: What are you saying?

Sen. V. St. Rose Greaves: We know that sometimes power and position can make people forget their moorings, which is a point I made earlier. Sometimes people give us assurances, and we have to ensure that they stick and adhere to those assurances. I think it is incumbent upon us to do that, because we do not often put things in place to monitor, evaluate and to ensure that we get what was promised. I am suggesting that the unions themselves must set up systems that would afford us to understand so that the research can be done.

I am hearing people talking and making suggestions about contract workers. I think it was Sen. The Hon. Enill who was talking about contract—people in permanent positions moving across to contract positions and then after three years or whatever, they are allowed to return and so on. I am saying that we can say these things, but we do not have the empirical evidence that shows that. While we are hearing that, we are also hearing that persons have been working on contract for several years while their positions in the public service remain open and nobody can fill them. So the unions themselves have a responsibility to also ensure that you have information that you can track so that we can have this information.

All of this is happening in a milieu—all these changes are happening in a milieu—where the Government has been undermining union representation and undermining the labour movement by further perpetuating contracts, not only in this situation, but in several other situations.

Somebody told us that the “bad john” days of trade unionism was over, and that we needed to become more academic—educate ourselves and be more intellectually inclined and behave ourselves, and many of us took up that offer. We informed ourselves; we became more educated; and now we are realizing that the tables have been turned on us. The very people who sold that to the unions have now become the “bad johns”, and they are bullying workers and the unions. So we have to be very cautious.

Mr. President: Senator, I would be grateful if you do not turn your back on the Chair when you are speaking, thank you.

Sen. V. St. Rose Greaves: I do apologize. This is still pretty new to me. I will try my best for it not to happen again. Certainly, in days of yore, some of us

would have looked at trade union leaders and found that their verbs were not too right and they did not know certain things, and we think now that we are better equipped than they are, but we must always remember the sacrifices that those people made, so that we could stand here today and think about our freedoms and rights: the right to a better wage, to a living wage, the right not to have to live without water and basic needs—no water, the right not to have to be stuck in traffic for three and four hours to get home and the right to have electricity. These things are all tied up in what is happening here, and do not fool yourself that this is simply about changing from Customs and Excise and Inland Revenue to the TTRA. It is much bigger than that.

In 1968, at the age of 18, I joined the public service. I was a career public servant, and I got frustrated very early by the obsolete rules; the regulations; the unproductive cumbersome processes and practices; pompous bosses; senior people who—

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

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

Question put and agreed to.

Sen. V. St. Rose Greaves: Thank you very much, Mr. President, and thank you to my colleagues and all the other Senators who are seated here. I was saying that I joined the public service very early, and was immediately frustrated. I consider myself a failed public servant, because I could have never fit in to the cumbersome nature of how work had to be done; how long it took; and why we did not have the things we needed to work. That was in 1968 and this is now 2010. I was at the Ministry of Works and Transport then. All these years later, we have failed to address some of those basic issues.

Mr. President, I go back to my original point. We need to come to a place where we are prepared to fix the system; to put structures in place; to make sure the rules work to give people the things that they need to work; to get people trained properly as supervisors; to make people accountable; and to prevent corruption. We can do it, but we just need to have the political will to do that. We do not have to keep coming up with new organizations and new institutions where after a couple of years the same problems are going to develop. We are still going to be unprepared to deal with those problems in the same way that we are now.

I just want to wind up by saying that every human being has basic rights. I think that we need to adopt a human rights approach in almost everything that we do. Among these are: the right to life, freedom, food, clothing, shelter, personal security, equality before the law, protection from discrimination, personal violation and freedom from fear and inhumane treatment. Human rights mean that each of us deserves to be treated with dignity. Everyone, regardless of colour, race, sex, sexual orientation, language, religion or political belief needs to be ensured of a decent standard of living, to have the means to meet basic needs such as an average standard of education, health, and to feel safe, secure and respected.

While we need to be responsible for our own and each other's well-being, in the same way, the Government needs to be responsible for those among us who cannot take care of themselves and are obligated to protect the human rights of all its citizens. I say that to say that in the transition—in all the changes and in the crafting of the legislation—we need to remember that we must respect the rights of workers in this country. We must imbibe a human rights philosophy as a way of life and an ethic of any change that we wish to make.

Finally, I want to use an excerpt from an article in the *Sunday Express* dated June 14, 2009 by Cedriann Martin where she speaks of the struggle of anti-smelter activists and answers to the question of how useful are the old tools of struggle. Again, I am asking, how useful are the old tools of intervention that we are using in order to get our institutions to work? She said:

- The first was emotional: crying, screaming, staying up at night.
- The second was scientific: conducting independent research and becoming armed with information.
- The third step was strategic: sustained resistance that called upon both passion and intelligence.
- They joined hands, voices and minds with other community based and non-governmental organizations.
- They made it clear through their presence at the mouth of the proposed site that they were not surrendering their tenure.
- And the women shared information with their neighbours.

Inside of that, it says to us that this change, or whatever is being done, cannot be done without consultation; without input; without people who have the passion and who care; and people who are honest enough to understand and to admit that

sometimes things are not done in the way that they should be and, perhaps, they can pull back and try to come again to recreate, reframe and to make things work.

I am suggesting that in this sitting, the amendments that are going to be put forward and the suggestions that have been made, the Government would take them on board and will keep an open mind and truly consider all that is being proposed to see what we can come up with that would work best, not just for the Government, not just for the workers, but what will work best for the citizens of Trinidad and Tobago.

Mr. President, I thank you. [*Desk thumping*]

Sen. Corinne Baptiste-Mc Knight: Mr. President, I thank you and apologize for the fact that my light was a little recalcitrant. [*Laughter*] Mr. President, this is a very serious Bill that we have before us. There are two aspects of it that I concentrated on when studying it. The first is that it deals with 90 per cent of the country's revenue; the second is that it affects the lives of almost 2,000 persons, which means that at a conservative estimate, it would be touching directly the lives of, at least, another 10,000. Let me deal with that aspect of it first.

I was considerably disturbed by the comments, the complaints and the problems expressed by the affected workers. I have to admit that on the basis of what was told to us by the hon. Minister yesterday, and what has just been reiterated by the Leader of Government Business in the Senate, I am satisfied that the staff of these two institutions will be properly and fairly dealt with in the transition. [*Desk thumping*]

Mr. President, there are some problems that will not go away. In the Lower House, in particular, there has been a lot of very intemperate language and allegations that tarnished every member of staff. There was no differentiation that some were corrupt; some were inefficient; some were lazy; and some preferred to stay at home rather than go to work at the behest of the union. Now, that behaviour raised problems on this side of the Senate, to the effect that now that you are putting these lazy, recalcitrant and corrupt people into the new structure, what is going to happen? I do not have a problem with this, because I know that human nature is flawed. I know that everywhere we go we will find corrupt people.

4.15 p.m.

As a former civil servant, I know that between 80 and 90 per cent of the staff in any government agency, and that is at a minimum would be serious, committed, hard working and in many instances overworked and underpaid

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people. On that side of the Senate there has been admission that civil servants are underpaid. That is why you cannot get auditors, but yet you allow your colleagues to malign people in this sacred place and on public television and radio.

I would like to suggest that people be encouraged to be more careful in their language. And when we deal with the few corrupt ones, let us accept the fact that except in the case of, I think, indecent exposure, it takes more than one for there to be corruption.

Mr. President, when a politician, a parliamentarian or a senior officer comes through customs from a conference or on business abroad with a 42-inch television that they forgot to put on their customs declaration form and happily expects the customs officer not to see, who is being corrupt? The customs officer who does not see it is accepted as being corrupt; the other party was just lucky.

Now, these are things that we have to be conscious of. When businessmen offer incentives and inducements to customs officers to promote them in the list, there is absolutely no sanction anywhere in law for that, and to the extent that that situation continues, you are inviting that kind of corruption into this new agency.

So I would like to suggest that that is a law that must be put on the books that would punish the person who offers the inducement as well as the one who accepts it.

Hon. Senator: It is on the books, it is not enforced.

Sen. C. Baptiste-Mc Knight: You see what I am talking about. What is the point of it being there if it is not enforced and what is the point of it being there if the people are perhaps offering the inducement without knowing. [*Interruption*]

So, in which case it must be enforced, because I am convinced that the current agreement is right, I would ask that at clause 20 in the Bill, just like in the NALIS Act, the TTPost Act, Civil Aviation Act, the arrangements for the transition of staff are included in the legislation and that these arrangements be included in clause 20. That would advertise to the staff exactly what Government wants and means to do with them.

Now, one of the aspects of the TTRA that disturbed me profoundly is the fact that it again highlights the fact that Government's default solution for dealing with public service problems is extract the troublesome area and put it in a separate agency. Now, you cannot say that it has worked brilliantly for WASA. It may have worked for a point for TTPost; the RHAs are still a problem. What guarantees have been offered us to give us comfort that this would be different? The fact that the

salaries would be better? Better conditions of service just means OSHA compliance plus, in terms of Government's norm with respect to the conditions in which they expect civil servants to work. [*Laughter*]

We need to be told. Are these people going to have properly appointed places? Customs is a problem. But I think everybody there except a few would be aware that when the bond in South Quay burnt to the ground in 1978—that is where Customs and Excise was housed—up to today suitable accommodation to replace that does not exist. Okay, there is going to be a new place on the docks for that, but how many years later? So, if the TTRA goes into there, then fine! Customs would have a home finally. But this is part of 2020 vision; people are going to be travelling from Mayaro and Siparia to come to work. Do I have the guarantee that there will be a gym? That there will be rest rooms? I do not mean toilets; I mean proper rest rooms. That there will be proper cafeterias? Perhaps, even a little crèche, because you have single parents. You have two parents, where both work? So the children have to be looked after.

Are these sort of things part of the new TTRA and for that matter, Ministry of Legal Affairs and wherever? This is what I mean by not OSHA plus; proper accommodation that treats the worker as a human being with full rights, with full benefits.

Now apart from that, it has been over the course of five maybe even six administrations from 1986 that there has been the recognition that the civil service needs to be reengineered. But the accumulated wisdom and genius of all of these administrations only managed to come up with one default solution; remove the troublesome entity; put it somewhere else. The next default position is blame the Public Service Commission, and its very inappropriately named operative arm, Department of Personnel Administration.

Why do I say it is inappropriately named? Because it does not have the sole responsibility for personnel administration. In the old days personnel administration was done in part by CPO, part by PNM, finance always has superannuation and the Public Service Commission deals with specific areas. This has morphed into a situation where you have Ministry of Public Administration to which personnel is attached with human resource management service, with a project for the initiation of public service reform and you have project IHRIS at finance.

Now in its own functions, that small area that the Public Service Commission is responsible for, it is dependent on inputs from all of these other areas in order to be able to function adequately. But nobody recognizes this. It is the Public Service Commission that is not functioning.

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Let us be fair, up to today there does not exist a policy on human resource management for the public service, but the Public Service Commission has to shoulder the responsibility for the shortcomings. But we hear today that there are vacancies out there for auditors, but you cannot find auditors for what the Public Service Commission is authorized to pay. But it is their fault that they cannot find staff. Hundreds of staff missing from Customs and Excise Division, but I know for a fact that at least over the past year hundreds of people have been recruited.

This is my personal experience because I have been asked to come and lecture to the incoming recruits—saying this might mean that I would be uninvited, but I have no problem because I need my beauty sleep. Look at my face, I need beauty sleep. [*Laughter*]

Hon. Senator: You are good looking enough.

Sen. C. Baptiste-Mc Knight: But, Mr. President, when my colleague, Sen. Prof. Deosaran mentioned that approximately 40 per cent of the customs staff are on their way out, where is the succession planning? Is that Public Service Commission's fault too? Come on, let us be fair. Recognize that what needs to be done is to have an overview of all of these different parts and have a proper human resource management policy. Because you would have off immigration next week and licensing the following week and whatever else, but you are going to be left with a rump that has to be reengineered. So please, start wrapping your mind around that.

You cannot keep blaming people for your own inefficiency. When I say "your", I am not talking about this present administration only. It has been going on for administrations, but since this is the administration with 2020 vision I am hoping that you would be the people who are able to deal with this.

Sen. Assam: Forty-three years in power—

Sen. C. Baptiste-Mc Knight: No, it was punctuated, come on. [*Laughter*]
And the punctuation did not help either you know.

Mr. President: Senator, it is 4.30 p.m., so we will take the tea break.

Sen. Assam: [*Inaudible*]

Mr. President: I beg your pardon Senator! We would take the tea break, so we would suspend until 5 o'clock.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. C. Baptiste-Mc Knight: I thank you, Mr. President. I was about to make a few comments on the Bill itself. Now, having listened to the hon. Minister in her introductory statement where she mentioned that there were some systemic problems affecting both these two departments that necessitated or pointed in the direction of the need for a revenue authority; and having listened to hon. Minister Enill this morning, he elaborated on some of these problems, a list which was by no means exhaustive, but these contributions certainly clarified for me the need to have these areas dealt with in a separate authority. Because when a problem like the lack of a tax court or the lack of tax rulings is evident, and the Government has been aware of these things for eight years and has not been able to do anything about it, I tend to agree that it is time to give somebody else a chance to rectify the problems.

Now turning to the Bill itself, I wish to start at Part III—the Board of Management. Mr. President, I feel quite strongly that in order to depoliticize this entity, this board should be appointed by the President and not by the Minister. You have the boards of NALIS and other agencies of that ilk appointed by the President, but a board of this seriousness to be appointed by the Minister, I think exposes the Minister to as great problems as with the board.

Now, moving on to 8(4)(g), I note that as it is written here, a gynaecologist who is a registered medical practitioner can certify someone as mentally ill. I think it will be more reasonable to rephrase this to have it "certified by an appropriate specialist medical officer."

Clause 9(1) gives the responsibility to the board for approving and ensuring the implementation of management policies, but nowhere in the body of the Bill it is identified who exactly would be preparing these policies. I assume that it would be the board, but it is not here.

Moving on to clause 11, it is unclear to me how a member who excuses himself of herself from participating in a matter, can still be counted as part of a quorum for the consideration of that particular matter. There seems to be a conflict that might be quite legal, but I do not understand how that can be so.

At clause 13, the terms and conditions of the board should be included in the Bill. I think this gives the Minister a little too much leeway, because a Minister can give different board members different terms and that would not be right.

Moving on to clause 14, subclauses (6) and (8), refer to the filling of vacancies and filling in for people who are absent. The way these are worded, it seems to me as if there is not a clear difference and definition between someone

who is appointed to act for a Member who is temporarily out of the country or indisposed, and the situation where a vacancy, i.e., there is no one occupying that particular post exists. I think that that should be clarified.

Moving on to clause 19, I wish to note that at clause 19(2)(b), this provision makes reference to section 16(4) which does not exist. So subclause (4) would need to be deleted all together. Subclause (5) which deals specifically with the Chief Executive Officer and Deputy Chief Executive Officer talks on the top of page 21 about while either, "...for any reason"—they are—"unable to perform the duties of the office of member..." Now, whereas the Chief Executive Officer qualifies for being a member of the board, the Deputy Chief Executive Officer does not so qualify. So this has to read "of the office" with no mention of the board. Just going back to the persons who are allowed to be members, I note that the Chief Executive Officer—arrangements are made in the event that that person is not a resident of Trinidad and Tobago. But should this not also apply to the Deputy Chief, given the fact that we seem to hear that there are great difficulties encountered in filling these top posts.

Going back to clause 26(4), I think that these rules ought to be subject to affirmative, as opposed to negative resolution of Parliament.

At clause 29, mention is made not only here, but elsewhere about an annual strategic plan. Now, I think it is a little onerous to expect a strategic plan to be done annually. A strategic plan is something that is usually a little longer duration than a year, and it is updated every year and you prepare your annual work programme, whatever, on the basis of the strategic plan. But to enshrine in legislation, an annual strategic plan, gives the impression that we are not too sure how these things are supposed to work.

Now, it is noted at clause 32(2), that the Auditor General shall have access to all books of accounts records. I am wondering if that really means all, because you are then giving the Auditor General access to people's personal records. I do not know. I am not sure. Then at subclause (5), the Auditor General is not required to submit a copy of the report to the Chief Executive Officer. Then to whom would they send the memorandum? I think that is an omission that can be easily corrected.

At clause 34(1), the board has to await the submission of the Auditor General's report before it can submit an annual report. In my short experience here, it means that the board can easily not be able to submit annual reports for a substantial period of time.

Now in Part VI, clause 35(1)—and I go back to the explanatory note on Part IV, where it says that officers and employers would be required to take this oath. But in the body of the Bill this oath is only specified for members. I think this is something very serious and it must apply to the officers, as well as to the members.

In addition to those few things, I wish to say that although it is not necessary to have it included in the Bill, I would need to have some assurance from the Government side that there is a firm commitment to fund the authority properly.

5.15 p.m.

Mr. President, our experience is that this is where it falls short. The Water and Sewerage Authority (WASA) loses 50 per cent of its water before it reaches its consumers, because the money has not been provided, over the years, for the renewal of water mains. We do not want this authority to suffer the same fate as the two agencies it would be replacing. It is not only the initial funding to provide the scanners, the IT equipment, all the facilities that would be required, but a continuous commitment to fund the agency properly, to release the funds that are appropriated in proper time.

I am minded of the hon. Minister of Trade and Industry's injunction yesterday, that this was a process of creation. I am also minded that only someone who believes in the creation chapters of Genesis would understand the manifestation of goods and equipment without the provision of hard cash.

I would urge the other side to ensure that state-of-the-art equipment, et cetera, would materialize through adequate provision for Customs and Excise and Board of Inland Revenue (BIR) persons, who would now become members of the authority.

Madness has been defined as doing the same actions and expecting a different and more positive result. If the TTRA is not to qualify as madness, it cannot be handled in the same fashion as existing authorities and agencies of its ilk. Regrettably, only if I can be convinced that in adopting this TTRA we would be breaking our mould and, indeed, creating a different animal, I would be happy coming on board, because I do not swim and I do not intend to be drowned by Government action or inaction.

I thank you, Mr. President.

Sen. Lyndira Oudit: Mr. President, I thank you for the opportunity to speak on this Bill. This is going to be a landmark piece of legislation, but I believe that today is going to be a landmark day for other things yet to come, so we look forward.

At this time, let me say it has been a pleasure sitting with you and sharing fellowship, especially during meal times; I think it is a fellowship. So whatever comes out of today, it was an honour.

I think it is important that records are set and straightened. For the record, I have full confidence in seeing that with respect to the draft memorandum of agreement between the Government and the PSA, the issues of staffing at the BIR and customs are not finalized. In fact, nothing has been signed, as we speak. It is now 5.19. That to me speaks volumes.

On March 09, 2009, the editorial of the *Guardian* said:

"Here was the chance for the Government to stand shoulder to shoulder with the PSA and to demonstrate the value of consultation."

That was 2009. The article says again, further that the:

"TTRA was handed down as a kind of summary judgment from the podiums of Cabinet public pronouncement."

That is very telling, because on February 03 of this year, there was an overview of the proposed Trinidad and Tobago Revenue Authority presented by Dr. Andre Vincent Henry, who is now the Chairman of the Trinidad and Tobago Revenue Authority Management Company Limited. This was held at the Hyatt, I believe. This was not a consultation; in fact, it was identified as a briefing. There is a very big difference between consultation and briefing. When you are being briefed, you are being given instructions and are being told that, "We have already made decisions"; consultation, however, is different.

It is where the mandate of those you have been given to govern are expressed through the channels of consultation. So the editorial of the *Guardian* of March 2009 and your briefing held on February 03, 2010, speaks tremendously to a lack of consultation with those persons for whom the greatest will be done; the greatest, greatest effect will be felt by those persons least consulted.

We had an overview being given and explaining to the stakeholders present, the chronological sequence of events, starting from 1993 and onwards. It says:

"The Government in 1993 came to the conclusion that the management of revenue collection was not optimal and as a result they sought technical assistance."

One of the things that was identified, and I read it in the overview and I heard it in the presentation of the hon. Minister of Finance and it was also indicated by

several other Ministers, was the lack of a division of internal affairs and auditing. It says:

"Neither the Inland Revenue Department or the Customs and Excise Division has a dedicated internal affairs division to address fraudulent practices."

These are not institutions that have been here for two years, one year or a few months. If the Government recognized so long ago—in fact, it was identified since 1993—then why were steps not taken to have established, within those two agencies, an internal audit system?

I heard the hon. Minister of Energy and Energy Industries, Sen. The Hon. Enill, in his contribution today speak of the lack of skilled resources to address the hiring or that prevented the hiring of skilled auditors. What has changed from yesterday or last week to tomorrow? What would change tomorrow by changing the name of this Revenue Authority? Are you suddenly going to have skilled auditors, because you have changed the name of the agency or the authority?

So while the Minister spoke of that, nobody has explained how you are going to fix the problems. If the Minister indicated a staff and expertise, the Bill in no way speaks of expertise. So what we have here is the failure of the ministries, subsequently the failure of the Government, for a number of years to establish agencies that would have worked as systems of checks and balances within the systems. There was clearly no political will to do so. So today we have the sum total of the political will that now exists to change over and establish the internal audit and Internal Affairs Division under your Revenue Authority Bill. It speaks of an internal audit and an internal affairs department, under this new Revenue Authority.

Certainly the question should be asked: Where was the political will? Is it that political will only now exists because the same members of your staff are not going to be there? We have heard where people are going to be released from their current terms of employment and be given welcome arms to come back and say, "Reapply for your jobs." In Trinidad and Tobago, we all understand what that means.

Similarly, we have the impending local government reform and we also have changing systems within local government bodies. We have the same approach, which is being said, "We are going to release you into the pasture and you would be welcome to come back under contract." So we have the Revenue Authority saying, "Go out and graze and then come back on contract, and we may take you back." How does someone take that to the bank? How does someone with a

mortgage take that to the bank? How does someone with children at school and commitment to universities take that to the bank and say, "Well, I might get back my job?"; when you have persons who are 50 and over, 45 and over, who have become almost, in the minds of a rapidly changing technological age, technological dinosaurs.

I want to give the Senate a very simple example of what I refer to as a technological dinosaur.

When I re-entered the teaching service, there was a gentleman close to retirement. One day he was very upset and he sat next to me. I asked him, "What is the matter?" He said, "Girl, the children gave me this phone and like I spoil it." "They gave me it for my birthday and I spoiled it." I said, "Well, let me have a look at it." It was what they call a simple "CEPEP phone". [*Crosstalk*] I looked at the phone. They call it a CEPEP phone. [*Laughter*]

I looked at the phone and I put it on and immediately he said to me, "Wait, wait, wait; show me what you just did." I said, "Well, I put it on". He said, "Show me, show me." You are talking about a guy who is almost 60. We might say cellphone and technology is such a thing now, that we do not need it, but you have to understand that there are people currently in the public service, who do not know how to operate a computer, who do not know how to operate some of the Internet systems and services. How are we going to deal with it? Yes, we can train them. I also heard when the response was given today about the question of retraining.

The answer was given, "No, no, no; HR is not only about training", but when people are faced with simple dissolution of their whole livelihood, when people are faced with the possibility that they may not have a job tomorrow or next week, because they are now competing with competent, technologically younger individuals—

5.30 p.m.

I also heard in today's contribution that the new system is going to be based on competencies. That is a harsh pill to swallow for many persons who have been in the system and service 10, 15, 20 years and may have reached a point of comfort. Nobody is saying that you have to always be to a point of comfort where you become slack or lax in your job, certainly not. But we have to deal with the realities of what this means and the implications for this when you tell people that the system is going to be based on competencies.

Mr. President, what we have clearly, is some form of parallel bodies and I heard several speakers talk about the board of management, the CEO, the role of and authority of the CEO and all these different agencies. Not only are we fixing or revising the BIR system, but we are now jelling two agencies under one. There are a lot of parallel bodies and management teams.

Mr. President, in August 2005, the Ministry of Finance submitted a White Paper, the Reform of the Public Sector Procurement Regime. In section 1.2, what is so telling in this whole Revenue Authority Bill is what was stated in this White Paper of public procurement. It says:

"The legislative history of public procurement, since this country's Independence reflects the piecemeal attempt at reform that has led to the proliferation of parallel procuring agencies in the stated attempt to improve efficiency in delivery."

Mr. President, the country is well aware of what this White Paper on public procurement regime is saying. It went on to say that this parallel way of operating:

"...has weakened the original mandate of the Central Tenders Board (CTB) established by the Ordinance... These parallel procurement agencies, (Statutory Bodies, State-owned enterprises...) also allowed the government to be involved in off-budget financing of public sector projects."

Mr. President, we have here a state body, the Trinidad and Tobago Revenue Management Company Limited, a state enterprise that is no longer under the purview of any procurement, or any sort of scrutiny. We are really at a position where the people have no control over any single aspect of anything that is done in this country, and so we always have—And I was pleased to hear Minister Enill talk about the mandate given by the people, and I ask a simple question:

What happens when you no longer speak the same voice as those you represent? Or is it that you never spoke in the same language? Is it that you never spoke the same language as those you represent? Why are your policies so far removed from those who are affected by them? It is so telling that in this very week we had the hon. Attorney General lay what is such an all encompassing document, the Uff Report, 513 pages, I am told by the Attorney General.

Mr. President, we have seriously moved away from listening to what the people have been telling us, but I have hope and faith that the voice of the people will have to be reckoned with. I do not know the language of Latin, but certainly

the voice of the people would have to be reckoned with. So we have a telling statement from the 2005 procurement White Paper. [*Crosstalk*]

I also heard from both the Minister in the Ministry of Finance and the Minister of Finance as well as from Dr. Henry at that review, that TTRAMCOL or the Trinidad and Tobago Revenue Authority Management Company Limited has decided to benchmark the design against Her Majesty's Revenue and Customs of the UK.

Mr. President, what is so interesting is that I have heard of so many other areas in the world which have used this similar model. That is almost laughable and the reason is that in so many other parts of the world, this particular model is being looked at as a failed one. I would like to draw two nations which used this Her Majesty's Revenue and Customs model. I am taking this from the Institute of Public Finance from 2005. It was held in Korea where they looked at public finance and state models throughout the world. The first one I would like to have this country understand is Uganda.

The similar semi-autonomous revenue authority was established in Uganda in 1991 and it took them six years before there was even a 3 per cent increase in tax revenue as a percentage of GDP. In 1991, Uganda's revenue from taxes was 7 per cent and in 1997 this shifted slightly to 10 per cent. You know what is so telling—and I am glad the Minister of Finance is here—is that after it went up by that 3 per cent, every single year since 1997, it has been declining steadily.

Mr. President, the other country is Tanzania. In 1996, Tanzania's tax revenue was 10 per cent of GDP. In one year, it went to 11 per cent by 1997. But again, since 1997, every single year in Tanzania just like Uganda, every year there has been a steady decline of tax revenue as a percentage of GDP.

Mr. President, do you know in the international conference what were the reasons given for the failure of these two revenue authority models in these countries? You know, we really must be the laughing stock of the world. The reasons that these revenue authority models failed in these countries:

1. Political influence eroded the autonomy of the revenue authority.
2. Too many taxes and complicated tax systems despite tax reform.
3. Too many weak legal sanctions for taxpayers and collectors.
4. Corruption networks took over the tax administration.

I think this is instructive to the current administration. And we are dealing with the reasons this same revenue authority failed in these other countries.

5. Lack of information that was given to the taxpayers and the inability of the respective governments to deal with the internal structures that were so critically needed for direct and indirect benefit to any citizen.

Mr. President, do you know why this is so interesting? Because here you have the reasons given for the failed revenue authority model used in Uganda and Tanzania, a model of Her Majesty's Revenue and Customs that our authority model is going to be based on and I would like to identify—and I know the Minister referred to this—what Dr. Henry said in his overview at that consultation briefing, that was after the understanding in 1993 that there was something wrong with revenue collection in Trinidad and Tobago, technical assistance was sought from foreign governments and by 2002, a committee appointed by the Government to examine the institutional framework of revenue collection in Trinidad and Tobago was done.

Mr. President, the problems that were found in the revenue system are almost the exact same as the reasons that the failed revenue authority systems were given in both Tanzania and Uganda. It says:

- "Inadequate staff development"—and this is Trinidad's understanding of the problem.
- Lack of control and accountability for Budgetary Allocations
- High incidence of corruption and corrupt practices
- Inefficient systems for internal investigation...
- Poor customer relations
- Lack of appropriate information technology systems
- Deficiencies in the legislative framework.”

While it is true that the committee also concluded that the revenue authority model provided an excellent framework, they did not say that it was without its faults and I think it would have been to the credit of the current administration if they not only jump to the first part of his statement or the committee's recommendation to use a model of revenue collection, but instead, he went on to identify problems under the revenue authority model.

He said the revenue authority model is not new and the experience with the framework has not been totally positive in all countries.

Mr. President, why are we now establishing what has become a failed model? We are going to establish a failed model to replace our system when problems in the system are the very things that are in the failed revenue system model that is going to be implemented.

5.45 p.m.

So why are we replacing our system with a failed system? We have here a lot of information that is coming about this revenue authority model. On March 09 of this year, 2010—and I am reading from Ria Taitt, political editor, her comments and her quotations from the Minister of Finance. The Minister spoke very much about what she saw as the—now, I am using her words—"efficiencies in the current system of the BIR and the Customs and Excise Division represent a leakage and of revenue amounting to five per cent of GDP or \$7 billion."

I think just for grammatical purposes, I do not believe it is the efficiencies of the system that are leading to leakages; it is really the inefficiencies in the system. But that is grammatical. I mean, I have come to accept that as part of some of the things that I get here.

So we have the Minister speaking about leakages and identifying—because she went on in the article to say that:

"The public service structure does not facilitate the effective, efficient, timely and appropriate hiring of people, disciplining of persons and the opportunity to ensure that there is a best fit of the persons in the authority."

She said:

"There were vacancies created since 2001 which were still to be filled."

These were the statements issued on March 09 of this year and I feel it is so highly unfortunate and so telling on the lack of will to fix the problems as they occur. You have the Minister of Finance telling the country that we have a problem filling vacancies since 2001 and yet you are coming to the Parliament to say that this revenue model is the best thing since sliced bread and all the problems of revenue collection will disappear because we now have a new name to call this. How are you going to fix the administrative problems? How are you going to fix the problems that are structural and inherent in the system? Nothing in this Bill speaks to that, nothing.

In the proposal; in this overview, Dr. Henry spoke of the 1993 assessment that was done by the Government. I would like to ask: Where is the public report for public consultation and public comment on this 1993 report? They went on and

explained that further to 1993 the Government sought technical assistance. I want to quote this properly. Dr. Henry says:

"Additional technical assistance was sought and received from the Caribbean Technical Assistance Committee (CARTAC) and the International Monetary Fund."

How does this current administration account for the assistance given, both from CARTAC and the International Monetary Fund? Did the International Monetary Fund give you paper assistance documents to peruse, or did they give you funding? Where have you accounted for this funding from the International Monetary Fund? We are talking here about consultation. Consultation cannot come after the fact. Consultation cannot come when you have identified clearly that since 1993 you have started a process that brought you to today.

In fact, I think many of you never expected that a day like today would be here now. A day like today—I am not referring to the Revenue Authority Bill at all. I am not referring to that; a day like today. You know, there is no other day like today, Thursday; no other day. It is interesting.

Sen. Dr. Saith: January 24 when Kamla won.

Sen. L. Oudit: Mr. President, you know, this Bill speaks of leakages and, in fact, all of the systems that were identified as deficiencies have been identified as leakages or causes of leakages. Where does this Bill speak to how you are going to address the problems of leakages identified in your system? There is nothing that speaks about the leakages. There is no plan, except to say that you are setting up an internal audit. But what are your processes? What are the systems going to be implemented that would address the current leakages in your system? We have leakages, clearly in the extent of billions of dollars.

What was very instructive to me in looking at this review of the Revenue Authority, on page 26 of this document Dr. Henry says:

"With the uncertainties that come from any transition process it is important that the incidence of leakage does not increase."

No one has spoken of leakages being reduced or eliminated. In fact, Dr. Henry says—and I am going to repeat it because it is so important. He says:

"...it is important that the incidence of leakage does not increase."

He never said they were going to reduce it or eliminate it; he simply says,

"We are going to leave it right there so it would not increase anymore." This is the Chairman of the Trinidad and Tobago Revenue Management Company Limited in February of this year. What are we saying? What are we dealing with?

So it is not to prevent the leakages; it is not to address the leakages. This Revenue Authority is simply going to not let the leakages increase. I mean, what I find is very interesting is that in the *Guardian* of March 29, 2010, we have a headline:

"Jamaat debt crosses \$40 million."

Now, as far as I understand, that is a Jamaat debt to the Treasury of \$40 million. You know, it says here:

"The debt owed to the State by the Imam Yasin Abu Bakr and the Jamaat Al Muslimeen to date is more than \$40 million. This figure is based on the judgment delivered last Friday by Justice Rajendra Narine in High Court Action Number 2292 of 1994."

It further went on to say:

"The valuation done in February of 2006 put the value of properties owned at around \$23 million."

If that is money owed to the Treasury, then in my mind, that is not a leakage. What we will call that? That is a haemorrhaging. We have a haemorrhage. We do not have leakage. You know, leakage is for urinals. That is not leakage; that is haemorrhaging.

We have a situation where, as far as we understand, there is a firm called Haji that came in from Korea to construct some 600 Early Childcare and Education Centres (ECCE). When we talk about projected revenues and revenues owed to the Treasury; when you talk about companies that are paid some \$50 million, and we have here outstanding moneys to the local contractors to the tune of \$16 million and \$20 million—so we have been told—and then we had such a leakage again, of moneys that have a way of impacting on the welfare of the lives of the people of Trinidad and Tobago, we have a second hemorrhage.

You know, what saddened me this week was when I heard that the problem that the Government had was with the local contractors—the local contractors. That saddened me. Because what we have done is that we have opened a little peephole and we have been pushing out the local contractors because we are bringing in foreign contractors. We are taking contractors from abroad and we are bringing them out here and local contractors have been getting the sticky end. We have here, people who are claiming that the problem with our construction industry is the local contractors.

We are dealing with the Revenue Authority Bill and one of the reasons and justifications given for the implementation or establishment of this model is to not have leakages go further than where they are. So we are happy with the leakage so far. We are not going to reduce it; we are not going to do anything with it. The leakages, we are happy with that level; we are not going to reduce it, because nothing in this Bill speaks about reduction of leakages—nothing.

We have a system of record keeping. You know, I have been speaking to a number of accountants on this particular Bill. There is a problem, and I am glad the Minister is here because she spoke about the IT programme that was installed. The problem with that, as far as I understand—and if I am wrong, the Minister can clarify—without any notification persons are no longer able to collect statements of accounts. I understand there is a blockage in the system, that persons cannot collect statements of accounts. I am also told—and again I could be corrected—[*Interruption*—these are accountants from the Board of Inland Revenue. They cannot collect it since 2001. I understand that without any notification to these taxpayers, adjustments are being made which affect their yearly refunds.

What I am told is that taxpayers have serious difficulty in collecting statements of accounts from the Board of Inland Revenue and they are told, "Go to the Freedom of Information Act; use the Freedom of Information Act to get your statements. We are not giving it to you."

Again, the Minister referred to a new system of processing. Do you know the new system of processing their notice, that it gives a notice of totals only? There is no explanation in the notice that is given about how this total is given. I want to give voice to the persons who gave me this bit of information, because it is such a blockage of the system that it has been frustrating persons, especially in the business community, for years.

We have a system currently where the record keeping is horrendous. Nowhere in this piece of legislation does the legislation address whether or not you are going to be transferring the system registration and record keeping.

6.00 p.m.

I am glad I am hearing what the Minister is saying. She is saying that the legislation does not deal with that. I wanted to say to the Minister that we have here a very telling statement where Dr. André Henry indicated that they were not going to transfer. I do not want to quote him wrongly. Dr. Henry is the Chairman of the Trinidad and Tobago Revenue Authority Management Company Limited.

That brings me to the question of whether we are going to transfer the systems that are poor, weak and inefficient, particularly that of record keeping? Dr. Henry said:

"We want to ensure that the process of transition is as seamless as possible and we do not import into the Trinidad and Tobago Revenue Authority anything that would reduce the integrity of the new organization."

In light of that commitment given by Dr. Henry and in light of what is currently presented as a blockage in the system, failed administrative structures with record keeping, how are we going to ensure that we reconcile all the poor data that currently exists? How will we reconcile persons who have to receive gratuity and cannot do so because for years their statements of affairs cannot be processed?

I know people in the teaching service who have retired and have been unable to collect their pensions because of several years of not being able to process properly. I will give you an example.

Do you know that although persons on fixed incomes are no longer required to file, by law, income tax—that was passed several years ago—there is still a \$100 penalty in the system—so I have been informed—for non-filing? I understand that because of the new system where you only see totals—

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

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

Question put and agreed to.

Sen. L. Oudit: Thank you very much. I always expect someone to “bawl” out “no”. I see it on your faces, but I will not waste time on that. [*Interruption*] I know you are honourable people. Thank you. I thank the Leader of Opposition Business.

Mr. President, I was talking about the \$100 tax, the penalty for not filing an income tax return. We understand that adjustments are made and that every year somehow that money is being added. When you have to claim gratuity or pension, when you believe that you do not have outstanding debts, the problem hits you in the face and you have several years of back taxes to pay. That is the system of record keeping; we do not currently have a way of ensuring that we fix the problems in the system. Are we simply transferring failed areas of bookkeeping?

I have already indicated to the Senate basic flaws in two countries that have used a similar Her Majesty's Revenue Authority and Customs Agency model. Mr. President, do you know the saying "get something from the horse's mouth"? From the horse's mouth, I want to inform this Senate and this population of some of the massive problems that Her Majesty's Revenue and Customs Agency model that we are going to introduce in Trinidad and Tobago is causing in England, its home.

I have here an article from *Citywire* out of the UK, by Mr. William Robins. It says: "Pensioners warn of HMRC tax code error".

I hope the Minister takes note in case she does not understand some of the weaknesses of the model. It is important. We cannot take it because someone says to do it. We have to understand our weaknesses. The article is dated February 09, 2010.

"Pensioners have been warned to check their tax code after changes to the HM Revenue and Customs' computer database have led to errors. The problems for the HMRC system have come after all records"—not some; not a few; not several—"for every individual employee and pensioner were transferred to one computer system..."—to another.

Mr. William Robins, who is the director of a group called the Low Income Tax Reform Group, has warned pensioners to review their code. Mr. President, this is the model that we are going to institute in Trinidad and Tobago and here you have millions of persons—because they simply transferred records from one computer to the next.

This same author, Mr. William Robins, on February 26, 2010, in another article in the *Citywire* of UK, says:

"HMRC systems cost pensioners £250 million in overpaid taxes

Discrepancies in HM Revenue and Customs...records have cost 1.5 million...people..."—which represents the pensioners of the UK—"£250 million in overpaid tax because the system cannot cope with pensioners' multiple sources of income..."

The article continues to say:

"The Committee of Public Accounts, chaired by MP Edward Leigh, has published a report...

In the report the committee said it is 'unacceptable' that HMRC does not have a clear idea how many older people are missing out and may therefore be paying more tax than they need to."

The point is, if you are going to replace something here, do not replace it with something worse.

Hon. Nunez-Tesheira: Why have they not replaced it?

Sen. L. Oudit: They are going to. That is why Canada took it off. It says:

"According to the National Audit Office even when the HMRC's new system is fully functioning there will still be 20 million unmatched tax codes that it could take the department years to resolve."

Who are we fooling by replacing our current system when it was clearly identified that there were administrative weaknesses and taking wholesale someone else's model that has failed in other parts of the world? *[Interruption]* You have to listen, Madam Minister. The country is listening. It has failed elsewhere. If you cannot listen and the Government cannot hear, you will put on the shoulders of the nation, authorities and burdens—the very Members of Parliament in the UK Parliament have criticized this. This is on March 03, 2010, out of *Reuters*, UK. It says:

"An official review of the HMRC Customs Department"

What is instructive is that you spoke about the need for customer service, employee motivation and staff morale; that this Revenue Authority will bring all this. Let me tell you what the MPs have said in the UK about that revenue model. The audit has found that only 11 per cent of staff at the HMRC felt that the change that took place was well managed and only 57 per cent of all calls to all HMRC contact centres were ever answered.

Is that the system you want to put here; a 50 per cent performance system? No. It says here that a survey of employee morale across all government departments in 2009 found that HMRC ranked last for 53 out of a total of 67 questions. That is what we are bringing into our country. That is the model being touted as the miracle cure, the magic wand and it is being ranked last in its own country.

We have people talking here. There are several articles. Internet is one of the wonders of the world. It would have been so interesting if more research was done to find out some of the problems with this wonder drug you want to bring. You want to bring a revenue authority. The people here are telling you there are problems with it. You do not listen to the people here. Oh gosh! Listen to people out of the UK who are telling you what is wrong with the system. You do not have to listen to me. *[Interruption]* I know you are not, Madam Minister, by your very

admission. I do not stand here to represent me. I stand here to represent the people who are opposing some of your policies. I am glad you have admitted that you are not listening to me. You are saying you do not listen to whom I represent and that is more telling than any other article I can bring.

I would like to suggest that we have here a system of tax reform for the environment, including e-filing and tax information online. I suggest that you reform the penalty system for tax evasion and that you look at a less centralized area and decentralization of some of the services.

The mandate has been given and clearly the voice of the people—what I am told and what I have reviewed are very clear. By her words, it is very clear that the Minister representing the Cabinet is not listening to the people. I hope, at some point, that what is done to us now and what is done to the Revenue Authority workers, when her time is here and we have someone else to stand up for you, Madam Minister, that someone else will stand up for you.

I thank you.

6.15 p.m.

Sen. Dana Seetahal SC: Thank you very much, Mr. President. A lot of people might be wondering what we are still doing here and if Parliament is really still going on. In that light, it seems to me that the Government would be well advised that now is not the time to seek to pass this Bill, after the Tobacco Control Bill, the Property Tax Bill—[*Interruption*] well not so much the motor vehicles legislation—and the UDeCott issue. It is not a good move politically, and you do not need me to tell you that. I am just reminding you, Sen. The Hon. Dr. Saith, through you, Mr. President.

A World Bank research paper has argued that a semi-autonomous revenue authority model, properly designed, can improve tax administration in developing countries in a rapid and comprehensive manner. That is the argument in a paper by Taliercio, October 2004, printed in—however, in my view, the Bill before us does not satisfy what is postulated in that article and other articles as a desirable authority. My first complaint is that what we have here is not autonomous enough.

For example, in Singapore, in their Inland Revenue Authority Act, there is provision for the appointment of the Chief Executive Officer. It states:

“The Authority shall, after consultation with the Public Service Commission, appoint a Chief Executive Officer.”

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In our Bill, the Minister has overwhelming authority and power and it does not make for an autonomous authority or semi-autonomous authority for that matter. I think this is a matter for concern.

Under clause 8, the board is appointed by the Minister. Under clause 12, the Minister may give policy directions to the board, in respect of its performance and the board must ensure the implementation of those directions. Under clause 16, the Minister appoints the Chief Executive Officer and the Chief Executive Officer is responsible to the Minister, for general directions. In other words, he takes general directions from the Minister who can terminate his employment.

Mr. President, absolute power corrupts absolutely, as we all know. Power corrupts and absolute power corrupts absolutely. I am not saying that the Minister by any means is corrupt, or any Minister for that matter. I am saying, however, that to give such overwhelming powers to the Minister, which is not precedence in other legislation throughout the world, is to set a bad precedent. If we are to have a semi-autonomous Revenue Authority and if we are seeking to have efficient, effective and fair tax administration, this is not the way to go.

Mr. President, it is now 6.20 p.m.

Mr. President: Do you have a Procedural Motion?

PROCEDURAL MOTION

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until the wind up by the Minister.

Question put and agreed to.

TRINIDAD AND TOBAGO REVENUE AUTHORITY BILL

Sen. D. Seetahal SC: Thank you very much, Mr. President and Leader of Government Business. We are told that the cost of moving from the Customs and Excise and the Inland Revenue, to the authority is about \$350 million. That is my information from Mr. Vincent Henry. What I would like to know is: Are we even assured that in five years, the Revenue Authority will have that increase in revenue to justify its existence? [*Interruption*] Exactly. My view is if we cannot be assured of that, then why do it? Have we not had—supposing, let us not deal in supposing, let us go with certainties. Why go through all of this trouble and expense, unless we have some assurance? That is what I am saying. We have gone through NHA to HDC; has there been any visible improvement? Have we not paid off people with VSEP in NHA to change it to HDC, with a view to making it

more efficient? Have we not abolished the post office and have TPost? I was told in 2003, that 94 per cent of the mails in Trinidad and Tobago will be delivered in 24 hours. I do not know about you, but I have never gotten any mails delivered in 24 hours; maybe when it comes to certain people on that side.

What about TTT and CNMG, were we not told the same thing? I do not know that it is on paper; it might be making more money, or making some money, but with the infusion of Government on state funds, can it really be said that it has improved?

What about the NWRHAs and the entire system of appointment and promotion, is it satisfactory? What about UDeCott, is that, does it—is what is happening over there, is it efficient, effective and fair in its procurement practices and performance? We have heard about Tarouba. All these agencies were designed to improve and make things efficient, because we rely on the citizens of this country and because the citizens of this country staff those organizations and because it is the same persons who lead them, unless we hire persons outside and their only allegiance would be to the politicians.

The problem, as I see it, is not to just have a name change, which is what we will be having and we will be giving a lot more power to the Minister or certain organizations, it is to have some fundamental changes, in terms of people, whether it is their training or their work ethic. Certain systems must be changed. But this is nothing. The way the proposals are drafted in this Bill, they will not fit neatly into a group in this country, that we have now, who perform these functions. We have to persuade those persons that whatever proposals we have for an authority, is the best way to go, if we are to get that efficiency and effectiveness. We cannot. We are not talking about 100 per cent; we would like to have 90 or 95 per cent.

Apart from that \$350 million, which I see will be wasted if this authority does not approve the performance of the customs and the Revenue Authority—I am not saying that those organizations are the best, but I am saying certainly, we look forward to some kind of improvement if we are spending that money.

My problem is the power that is given to the CEO under this legislation. The CEO is not appointed by authority, as in Singapore and other legislation, it is appointed by the board. Like everything else, he/she is appointed by the Minister. The CEO has more powers than the board. The board cannot really interfere with the CEO's function, unlike an ordinary company. There is nothing in the legislation which determines how the CEO is to be appointed and what are his specific qualifications. [*Continuous crosstalk*]

Mr. President: Hon. Senators, I think you are—

Sen. Assam: Sorry.

Mr. President:—disturbing the Senator from her contribution.

Sen. D. Seetahal SC: Thank you very much. As I was saying, the Chief Executive Officer that is proposed in the legislation, is to have virtually untrammelled powers by the Minister. My view is that it is dangerous in the current climate that we have in Trinidad and Tobago, as has been shown in recent times. I also feel that there is inconsistency in the legislation between the powers and functions in particular, of the board, the authority and the CEO. Yesterday I ventured to illustrate that to the Minister of Trade and Industry and Minister in the Ministry of Finance, Sen. The Hon. Mariano Browne, when I pointed out certain aspects of the legislation to him.

There is no reference in the legislation to other matters such as the Tax Appeal Board. If you are challenging a decision of this authority, does it go to the Tax Appeal Board, because it is one authority now? Currently, if you challenge a decision of the comptroller, you then go to court, but this is not clear, in terms of the functioning of the CEO and nobody has said anything of that nature. I think it is really a piece of legislation that is put together with a vain hope in my mind. I do not think a lot of things have been thought out.

What about disciplinary provisions and promotion? Everything seems to be an appointment of other employees by the authority in a contract for services. That is distinct from a contract of services. I guess that might be by design, but again it is not guaranteed any kind of employment and loyalty.

In short, I will stop here, I think that this legislation is not going anywhere today. I hope when and if it comes back, it comes back in an improved, redesigned form, that people can have confidence in the fact that we can really look forward to efficient, effective and fair tax administration in whatever way, whoever is the government at that time proposes. Because, clearly I am not voting for this legislation as is.

Thank you very much. I hope and I wish everyone else the best and persons on that side who would be most likely, some of them in another place, and on this side I am not sure either. It might be reversed.

Thank you very much.

Sen. Dr. Surujrattan Rambachan: Mr. President, we are standing here this evening, perhaps, our last evening. As we all know, certain matters have

transpired, in which Parliament is due to be dissolved at midnight. Maybe that is the note on which I wish to start my short contribution. It is, of course, unusual for a Parliament to be dissolved and a certain Prime Minister to have to go to the President and ask the President to dissolve Parliament two and one-half years within the five-years for which the people elected the Prime Minister and his Government. This is not the first time that this Prime Minister has had to go to the President to do that. He did that in 1995 and, of course, he was defeated in the election.

6.30 p.m.

Mr. President, it is very interesting, in the context of this debate, to say that when a Prime Minister has to go to the President and ask him to dissolve Parliament, it means that Prime Minister has lost the confidence of the people—

Sen. Mark: Definitely!

Sen. Dr. S. Rambachan:—and, perhaps, it is his hope on the hustings that he might be able to convince the people that he deserves another term.

Mr. President, this is the first time in my living history that I am seeing and witnessing some scenes in this country that are not nice for the eye. I would be very honest with you in saying that it is never a nice sight to see a prime minister humiliated in a country. That is not a nice sight. It could be any prime minister. That is not a good thing to see the head of the Government, someone who represents the image of this country—whether it is locally or overseas—to be treated with that kind of humiliation as the Prime Minister of this country was treated recently on his tours in several constituencies. In my living history, to see an 81 year-old man get up and do this to the Prime Minister—[Shows action]—and say: “Do not enter my premises”, was also something that was not very palatable to the eyes

Is it that the Prime Minister, because of Bills like the TTRA Bill, the Property Tax Bill and all the other Bills that have sought to bring pressure on the people, that the people are the real victors in this situation that they have drawn the Government to its knees and has forced the Prime Minister into an election? The people have been victorious, and it is a victory that they are going to express whenever the day of the election is called. [Desk thumping] Is it that the Prime Minister is afraid that there are other matters that will unduly embarrass the Government? Mr. President, is the Prime Minister, perhaps, now very conscious of the anger of the people? Is it that the new Leader of the Opposition has been so—

Sen. Dr. Saith: Mr. President, on a point of order. I am not aware that we are debating the Prime Minister's decision to dissolve Parliament. I know that he needs a little leeway, but when is he going to come to the Bill?

Sen. Dr. S. Rambachan: Mr. President, thank you. I know this hurts; it hurts badly. It is like a sword in the heart; a dagger in the heart but, nevertheless, I must tell you that the Leader of the Opposition, within two months, has been able to score a major victory in this country. [*Desk thumping*]

Mr. President, I need to make this contribution this evening, because whenever this Bill comes back, I want my contribution to be recorded in the *Hansard* of this country for posterity and important reasons. The debate on this Bill today is taking place against an important set of results that came out recently for which I seek your permission to make reference to. This is the result of the last MORI poll that was done in this country in the months of February and March in which 88 per cent of the population or the sample said that governance/dictatorship was a major issue in this country among the 10 issues.

Mr. President, just for your information, the top five issues were crime and violence. Mr. President, 93 per cent of the people said crime and violence; 92 per cent said corruption; 90 per cent said health; and for governance/dictatorship, 88 per cent. Coming in fifth is 81 per cent of the population who said that it is the economy, the high cost of living, food prices and unemployment. Those were the top five issues.

Mr. President, this debate takes place against the background that the people are concerned about how things are being done in this country. For 88 per cent to be saying that they are worried about dictatorship and governance in this country, I think it is very important that we talk about governance. My friend, Sen. Mervyn Assam, talked at length about governance and the governance model.

Mr. President, before I continue, I would like to pay tribute to the Independent Senators in this debate today. Mr. President, the Independent Senators together with my fellow Senators, brought an eye for detail that was, perhaps, missed by many in the other place, and they ought to be congratulated for that vigilance, in terms of how they looked after the interest of the people in this matter. [*Desk thumping*] This matter is not only about the PSA workers, but it is about governance; it is about how things are done; the Central Tenders Board; procurement; the Public Service Commission and the undermining or the bypassing of the Constitution in a way that threatens the very rules by which we have chosen to be governed under our Constitution. The debate on the TTRA Bill has focused on seeking answers to several questions. Is the creation of a TTRA necessary?

In a document produced by the International Monetary Fund Working Paper WP06/240 of 2006, researched by MK and W Crandall, it says on page 63 of that report:

“The case for establishing RAs in the first place has been largely intuitive.

This is a broad conclusion about perceptions. Most countries clearly believe they had a sound basis for establishing their RA. On closer inspection, though, this was usually a well-articulated list of problems or inefficiencies in revenue administration that they believed needed to be addressed.”

This is what we heard from the Minister today, because they listed what they thought were problems or inefficiencies. The report continues:

“An intuitive leap was made that the RA was the best solution to solve those problems and address those deficiencies.”

What was the basis for this leap? The report answers:

“The basis of this leap appears to have been: recommendations of bilateral donors and international organizations; practice in neighbouring countries; and/or generic or qualitative evaluations of success in other areas and locations.”

This is the next statement:

“In some countries, the leap may well have been the right decision given the political context and the need for a dramatic catalyst for change, particularly in areas where other reform initiatives had failed.”

In other words, it is very possible that this Government wanted to show that it was doing something about reform, because they have been unable to manage the public service—and I am going to show that—and, therefore, they had to do something dramatic to prove to the country—to give the semblance; to create a perception—that something was being done about reform and ended up with the TTRA which is not necessarily what this country needs at this point in time.

They have put this country under stress, not just the 1,700 workers of the BIR and Customs and Excise Division and their families but an entire civil service of 60,000 people into uncertainty and in distress. That is what people are reacting to today in the country. That is what people are celebrating today when they know that an election is going to be held in this country, and they are going to get a chance to reverse what is happening to them in this country. [*Desk thumping*] Mr. President, is the TTRA really necessary at all?

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Secondly, this debate has focused on the question: Is there compelling evidence that suggests that the TTRA will improve revenue collection and deliver superior customer service? Mr. President, in that very report, it says here that it is inconclusive whether, in fact, this will happen like that. In the very IMF report, it is inconclusive that the revenue authorities have necessarily led to better customer service or improved revenue collection. In the short run, yes, but over the long term it has shown different results as some of my fellow Senators have demonstrated.

Mr. President, we have dealt with whether the employees have been given a fair deal, and Sen. The Hon. Conrad Enill read out a document today which he said was an agreement reached with PSA. I am happy to say that the PSA has won a battle in this country and has succeeded in protecting the pecuniary interests of the people who are members of the PSA, and that is something that teaches us a lesson: People are still the final arbiters of their positions in this country. [*Desk thumping*] The people of this country are the ones who have to rise up and defend themselves. We have to pay tribute to Sen. Joefield, Mr. Watson Duke and all the members of the PSA who marched around this Parliament over and over in order to let their voices be heard. [*Desk thumping*]

Mr. President, the other matter that this debate has focused on is the philosophy of governance by this Government. Is it really one now of outsourcing, but a different kind of outsourcing—outsourcing within the Government itself with all of these statutory authorities and special purpose companies?

Mr. President, as had been asked by Independent Senator, Sen. Helen Drayton, when she focused upon accountability, when one looks at the clauses that she referred to, it is very important that any Bill that comes before this Parliament, that the same kind of detailed analysis be done in order to ensure that there is accountability, value for money and integrity, otherwise we will get another UDeCott in this country; we will get another Brian Lara Stadium in this country where people become lords onto themselves. They make the rules and apply the rules themselves and say that they do not even have to respond or account to Ministers. [*Interruption*] Let the chips fall where they fall. If some people built an airport and there were people who were corrupt in the airport, they are paying for that today. Let them pay for it.

I do know that if we had saved money on the Brian Lara Stadium, we might have been able to put a computer lab in every school in this country. [*Desk thumping*] We might have been able to do that. We might have been able to light up 150 more playgrounds so that instead of children going on the drug line they could go on the sport line at nights. We might have been able to do those things.

Sen. Browne: We did that already.

Sen. Dr. S. Rambachan: But not sufficiently. You have wasted a lot of money in other kinds of things and that is the problem, Sen. The Hon. Mariano Browne. That is the problem! The problem is the failure to listen. Even in this Senate it represents the failure to really listen to the voice of the people, and that failure to listen has angered the people so much that they want to vote you out and they will vote you out. [*Desk thumping*] I look forward to campaigning against you in Caroni Central.

I invited the hon. Senator to come to Central Trinidad to see what RuDeCott was doing on Jerningham Road and he was appalled to see the wastage. He admitted that this is not right and this is a wastage of taxpayers' money, and I congratulate him. Do you know why? Because you were honest, and because of that honesty I respected you, and I will continue to respect you, because few Government Ministers will do what you did there: Stand and tell the people that this was wrong. You got it corrected but after a couple more million dollars was spent to correct it in that area, but you responded. You really kept the faith I had always had in you.

Sen. Mark: You get big up boy! You get big up boy!

Sen. Dr. S. Rambachan: Could the BIR and Customs and Excise Division not be made to be more efficient and effective by focusing upon the forces impacting upon their capacity to achieve their goals to fulfil their mandate? The hon. Minister, who is not here at the moment—my contribution, perhaps, does not interest her, but it is going to interest the thousands who are viewing today—would be very aware of what is called force field analysis, where you try to identify the restraining and the facilitating forces that cause an organization or a department of an organization not to function. I wonder if you have paid all these consultants to do all kinds of things, but you could have engaged in a simple force field analysis to identify restraining and facilitating forces, and you would have been able to identify what you had to do and maybe change it with the help of the people who know how to change it and who work there.

Mr. President, the sixth point around which this debate has been centered is: Is the Constitution being undermined in this country by a subtle covert attack or assault upon important institutions that have been geared to insulate public servants from political interference?

6.45 p.m.

In this case I will refer to the Public Service Commission and whether in fact what we are doing is really undermining the Constitution and bypassing, because we cannot get the new Constitution that we want that would give us an Executive Presidency, amongst other things, fast. But I want to tell this Government today that if they think they are going to get any two-thirds majority, they might have no seats at all in the next Parliament of Trinidad and Tobago. Do not be surprised. [*Laughter and desk thumping*] They may have no seats at all, given what is happening in this country, given the wave of enthusiasm against them, not for them, against them in this country.

Mr. President, are public servants losing their independence because they are being made orphans of the TTRA? In the manner in which the Minister is going to appoint CEO, deputy CEO, have control of the board and so on, are public servants going to lose their independence? The kind of independence that they had when they came under the Public Service Commission and when they were not afraid to tell someone, I am doing my job and I can be protected or they can tell a Minister, I am not doing that and I will be protected. This is why today so many public servants have challenged the Government and have gone for judicial review and won judicial review because they have the protection of the Public Service Commission which they would not have if the Public Service Commission is moved. [*Desk thumping*]

The eighth matter is the Government and its Ministers really engaged in the privatization of the public service for the reason that they cannot manage the public service; that they have failed to manage the public service. The real managers are the Ministers. They are the real managers. They cannot say that they are just politicians elected to sit; they are the real managers.

I worked as a mayor in local government and let me tell you something, I have great respect and regard for the Minister of Local Government, because I sat there in many meetings with her and she tried to manage her ministry. She may not have succeeded as she wanted to, but she tried to manage her ministry. And that was the one Minister who could show signs of doing that, what about the rest? Or is it because Ministers were hired who did not know anything about governance and they are OJTs still on the job and they have not learnt as fast and they have not gone on the learning curve?

Mr. President, concerns have been raised by Senators with respect to the possibility of the TTRA becoming another UDeCott. This country is paying a very serious price for the situation that happened at UDeCott. This country's image has

been damaged. Citizens have been affected by what has happened. Citizens have been suffering denial, so you cannot get water; you do not have enough money to give WASA so you can have a drink of water; you have not been able to do the things that you are supposed to do with the transport in rural areas. Citizens have been suffering because of that, in terms of denial with respect to the quality of life.

We have to be very careful with the powers that are being given to this Minister. I am not going to go over the clauses. I am going to refer to them: Clauses 12, 13, 16 and 27(2) of the Bill are clauses that are dangerous in terms of the powers that it places in the hands of the Minister. More than that, this TTRA is an authority in which you are going to be collecting property tax, income tax, corporation tax, customs and excise tax, and so on and so forth—95 per cent of your revenue.

You know in a nearby country a certain President is using the tax office to hound people. You wonder whether the same thing could happen here in Trinidad and Tobago, which we do not want at all. So it is dangerous to put the power that is there in this TTRA in the hands of the Minister. It is a powerful political weapon that can be used against people who are against the Government, and I do not see the checks and balances that one needs to see in the Act.

I also am concerned about clause 27(4) of the Bill with respect to procurement, and I say with my brother Sen. Mark and Sen. Drayton, that negative resolution be changed to affirmative. I know that people scoffed and they laughed at Sen. Mark when he talked about negative and affirmative and said it was like a record being played over, but Sen. Mark knows why he said that. He knows that, and Sen. Mark has every right to stand and show that the rights of the people are protected and that matters involving the public purse are also protected, and the Senator did right.

There is an interesting clause in this Bill; clause 24 that gives the authority the power to borrow. I want to know what is the Revenue Authority going to borrow money to do? What are they going to borrow money to do? What is worse than that, they are going to be given this power by the Minister in an economy where the public debt is approaching \$70 billion. Who is going to pay that? Divide \$70 billion by \$1.3 million and tell me how much each citizen owes in this country? Maybe the very quick calculating Sen. Ramkhelawan can calculate that for me? But seriously, that is what each citizen of this country would owe.

That means that Sen. Laurel Lezama's grandchildren will be mortgaged and have to work to pay that off and Sen. Wesley George's children and grandchildren will have to work to pay that off also. Not even children, grandchildren and great

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grandchildren. Why are we doing that to our people? And now you come and say they can borrow money. Why borrow?

Then clause 23(g), they can make investments with the provisions in there. *[Laughter]* What kind of investments are they going to make?

Clause 23 is a dangerous clause; it talks about consultant fees, without defining what these fees are going to be.

Hon. Senator: And it has rules to collect revenue.

Sen. Dr. S. Rambachan: And he wants to collect revenue. *[Laughter]* That is what I am saying. So it is a wide Bill that should be given detailed attention. *[Interruption]* I am just trying to point out some of the areas.

My concern this evening is a human resource management concern. What is the real impact of 1,700 persons working under a state of uncertainty in their division? What is the impact of that upon the entire public service? Every area of the public service you go, you are hearing the whispers, you are hearing the fears, you are hearing the anxieties of people and there are severe implications for productivity, commitment and service delivery in the country from the public service today.

I do not want to let this opportunity pass, for me to say here this evening that one of the finest groups of public servants that I have ever worked with since I came into public life, have been the public servants in the Parliament of Trinidad and Tobago. *[Desk thumping]*

They are responsive, they are flexible, they are courteous and they deserve to be here because they have earned their keep. They are really, really examples of public service and I commend them and I hope this Parliament will find ways to commend them and appreciate them. *[Desk thumping]*

Mr. President, Sen. Assam spoke about the politics of protest as a result of a failure to adhere to the functionality of process, if I may add to your language, Sen. Assam. But protest in this country is more than meets the eye. Protest is about lost man hours which Sen. Drayton spoke about; which should never have to happen if you had followed process. It is not just about the decision that is made, it is how the decision is made, and we are not paying attention to that.

We are making a lot of decisions, and even the Prime Minister of this country had to admit that his Ministers were not listening to the people and there was a gap between them and the people and he sought to close that gap by telling them to go out there and walk among your people and what have you. The economic

disruptions, the cost to this country has been high all because of a lack of process. You have aggression now. You have withdrawal of enthusiasm on the job. You have a demoralized workforce; you have minimum performance. People are just doing as much as they need to do so they could retain their jobs. You do not employ people just to stay on the job; you want them to contribute beyond the requirements of the role. You have to inspire them to do that and you do not inspire them in that way, in a climate of uncertainty.

What is happening there in that part of the public service, in the Customs and Excise Division and so on, is demoralizing the entire public service, but there is a danger you know. Not only is that going to happen in the BIR, in the local government reform that is proposed under Part VII of the proposed Bill, “Staff and related matters”:

“The Permanent Secretary of the Ministry shall, with the approval of the Minister, appoint a Chief Executive Officer on contract for each Corporation.”

Then you have:

“Each Department of a Corporation shall be under the supervision of an officer”—appointed on contract by the Permanent Secretary—“who is designated as the Head of the Department.”

I want to say to local government people today to listen to this:

“The staff of a Corporation”—in clause 63—“shall include such other officers appointed on contract by the Permanent Secretary of the Ministry or the Corporation”—including—“legal officers, accountants, engineers, public health officers and such other officers and employees as may be required for the efficient discharge of the duties of the Corporation...”

On contract. [*Interruption*]

Sen. St. Rose Greaves spoke about that today; the contracting out mentality. Why are you doing that to people? I thought that you want to create an institution where you have commitment, where you have some level of longevity and where you develop people? Is this why we have brought the Customs and Excise Division and BIR to ruin, because we could not manage them? As Sen. Prof. Deosaran said, 40 per cent, people are in their 50s—

Sen. Prof. Deosaran: Fifty six and over.

Sen. Dr. S. Rambachan: Fifty six and over. You have another statistic given by Sen. Joefield where 30 per cent are understaffed and you expect those people

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to do well. Did you deliberately do things to bring the BIR and Customs and Excise Division to its feet? The same thing is going to happen to immigration workers, the Licensing Office and so on, the pattern is the same.

Mr. President, you cannot live happily in a society if you are working unhappily; and people are working unhappily in this society—60,000 of them in the public service. Therefore, 60,000 homes are affected and people are living unhappily, and that is not good. [*Interruption*] Your responsibility as a Government is the happiness of the people. [*Desk thumping*] That is what your responsibility is. Not the unhappiness of the people.

Sen. Dr. Dick-Forde: But we have that in the vision and he said it—

Sen. Dr. S. Rambachan: You do not know how to implement it.

Sen. Dr. Dick-Forde: We have it in the vision—[*Crosstalk*]

Sen. Dr. S. Rambachan: That is very good. Congratulations! It will remain on paper.

Sen. Dr. Dick-Forde: But he made fun of it yesterday.

Sen. Dr. S. Rambachan: Mr. President, Government Ministers are the managers. [*Interruption*] They should never escape being told that and be reminded of that. They are the managers. And the role of a manager is to create an environment that inspires the expression of competence. [*Interruption*] That is what you have to have in this society. That is the role of a manager, and through the expression of competence, then you get the kind of high performance you want in this society and out of that high performance you get superior customer service.

But when you have an environment where people are working and there is a nature of conflict, the nature of uncertainty, what are you going to get? You are not going to get superior customer service. The service that a member of the public experiences when they come before the counter of a public institution is a function of how the people who serve are treated by the people who manage them.

Hon. Senator: That is right.

Sen. Dr. S. Rambachan: And the people who are managing them today do not care about them. This is the Government that came on the platform and said “We care”. But are they really caring?

The performance problems which are referred to as efficiency and effectiveness, and on which platform the Government said it is bringing this TTRA to improve efficiency and to improve effectiveness, are due to poor leadership and

poor management of people by the Ministers who are the managers, and what happens? They deflect—and the workers and the employees are blamed. What is needed in the public service is a more collaborative culture required to change behaviour, and drive performance in the public service.

7.00 p.m.

The Minister referred to systemic problems, but never elaborated on what were these systemic problems. What is a systemic problem? What are these problems? Why can they not be solved? Systems are created by people, and people have to manage the systems. Ninety per cent of the problems in organizations can be solved by the employees. They know the answer, but are they being given the opportunity to contribute?

Mr. President, I will give you a story that is very relevant to all of this. In the year 1996, I was doing some work in the sugar industry, and the Chief Executive Officer of that company and myself—he was that kind of person; a very people oriented person who believed that you cannot get performance unless you embrace people, you deal with people and you win the confidence of people—decided to go out in the fields and meet all the workers. He went to this particular field where the airplanes were spraying the cane. To spray the cane, there is a gentleman who will stand there with a bicycle so he can ride and he holds up a crocus bag on a stick so the airplane can see where it can dive and which field it can spray. So the CEO went up to him and said, "Good afternoon to you and how are you?" He said, "Well. Who are you?" He said, "Well, I am the new CEO of the company." He says, "Oh, that is nice. I have never met a CEO of the company. Can I shake your hand?" He worked there for 33 years and had never shaken the hands of a CEO. The CEO shook his hand.

As he finished shaking his hand, the gentleman said, "Hold on, I want to talk to you", and the plane flew by. As the plane flew by, he was now riding his bicycle to the next field and the CEO and myself were walking. He said, "CEO, I hope you are not stupid like all dem other CEOs." I said, wow, this guy is brave. So the CEO said, "No, I hope not. Can you teach me how I should not be as foolish as dem?" He said, "CEO, what you spraying this chemical for? In any case, dey puttin too much water in de chemical. Look at the spots on the leaves you will see how light it is." He knew that perhaps even the people who were spraying were indulging in a corrupt practice. He said, "CEO, what you doing this for?" He said, "Well, it is the froghoppers we are trying to control because they destroy the cane." He said, "CEO dats the point. Where do froghoppers live?" The CEO said,

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"It lives down in the root". So he said, "So, why are you spraying on top of the cane in de dry season? Nothing to take de thing to go down. CEO, if you go down to a research station, dey producing ah yellow thing that dey say is for biological control. Why you don't take that and throw it by hand throughout the fields?" The CEO and myself went and the place was there, a little prototype factory producing metarizin, and the CEO instructed them to produce as much as they could. They saved, if I could remember, about 1,700 acres of cane as a result of that man whom everyone thought was a "fella" just holding up a flag so that airplanes could dive and spray.

In the public service you have people who know the solutions. But what we are engaged in, in this country is what is called "consultantilitist". That is a new disease in this country. Everything is a consultant. Everyone is becoming a consultant. *[Interruption]* What I am trying to say, is that there is not enough consultation and collaboration with the people who can solve the problem. Mr. President, what have we done to the public servants? Do you know what they have done? They started on the wrong footing. They started by saying, "You know what, these public servants are lazy. They cannot perform. They have what is called the Theory X philosophy of the workers, and they get the Pygmalion effect. The people just deliver what they expect. That is what you have happening here, because you have mismanaged the people. The people are not incompetent. The people are competent. You should be asking a different question, hon. Minister of Finance in terms of reform. You should be asking the question: Why is it that competent people are behaving incompetently in the public service? That is the question you should ask. And if you start from that, you will be able to find answers that are very different to what you find here. You might very well end up finding that you did not have to set up a TTRA at all.

Mr. President, when you come to the Senate, you just do not come to do a day's work, you come here because you want to be seen as a competent individual; a competent person at what you do, and you are a competent person at what you do. But it is the same thing with the worker. A man does not go to work to be seen as an incompetent person. Work is a way that we validate our presence in the world. Through our work we validate our presence in the world, and the people who are working in the BIR and so on, what have we done to them? We have taken competent people and made them incompetent. They say that these people are incompetent, but I have gone through some figures, and I will show you. The Customs and Excise Division International Trade estimated that they would collect \$1.433 billion in 2005; they collect \$1.473 billion. In 2006, they

estimated they would collect \$1.596 billion; they collected \$1.836 billion. In 2007, they estimated they would collect \$1.934; they collected \$2.006 billion. In 2008, they estimated they would collect \$2,386 million; they collected \$2,171 million in a year when the economy started to fall, and when people were not paying as much duties and so on. In 2009, they estimated they would collect \$2,506 million; the revised figure was down to \$1.8 billion and we all know what happened in the country.

But the point I am making is that these people have been collecting more than 100 per cent of what the estimates were, and if you take the BIR department also, it is very similar. In 2005, you estimated that you were going to collect \$14.1 billion; you collected \$19.1 billion; five billion dollars more. In 2006—\$22.5 billion; you collected \$25.8 billion. In 2007—\$22.8 billion; you collected \$25.7 billion.

Sen. Dr. Saith: [*Inaudible*]

Sen. Dr. S. Rambachan: Well, separate the figures for us, and I would very, very much like to see them. In 2008—\$25.4 billion; you collected \$38.9 billion, and it was probably the year of the real spark in the oil prices that you got \$13 billion more. In 2009, it fell from \$28.5 billion to \$22.2 billion. But you cannot blame the workers for that.

Mr. President, they talk about the Public Service Commission being archaic and so on. Is it that the Public Service Commission is at fault, or is it that the Government is at fault with respect to how they deal with the Public Service Commission? Let me give you an example. You have all these promotions and what have you that have not been done, the onus is upon the Permanent Secretary to ensure that annual appraisals are done. If the Permanent Secretary does not ensure that the annual appraisals are done, they are not done. But right now the appraisals are done badly. You cannot have somebody working in January and you are appraising them in December. You really want to work on an appraisal system? Work it in the context of a performance management system, where you teach everybody to get As and that you make sure you get it on a quarterly basis, so that people can know how they are progressing.

So the appraisals are done by the Permanent Secretary; then it is the onus on the Permanent Secretary to make recommendations for promotion; then it is the onus of the Ministry of Finance to say whether funds are available for filling the posts; and then the Public Service Commission can act.

Sen. Mark: Precisely.

Sen. Dr. S. Rambachan: You are blaming the public service commission, but you have layers, and layers, and layers of delays taking place. Who says the same thing is not going to happen in the TTRA? If you read the report of the IMF that was done, you would see in the same report that they said that the RAs went back to the same civil service kind of behaviour. People go to work to express competence. There is an issue of motivating people. The BIR and the Customs and Excise Division employees are demotivated, and you know what? The taxpayers are also depressed. You want the taxpayers to pay more money in this country, they will pay more money. But when taxpayers, including workers, see the colossal wastage of money; when they do not see benefit from the taxes they pay; when they do not see a dent in their quality of life, then what would they do when there is no value for the money that they give? They engage in non-compliance, they engage in evasion. When workers have to work in environments that are not conducive to high performance, when their basic hygiene needs are not met in the workplace, when they are dissatisfied, then you get low performance. The psyche of our people, workers in the public to be active contributors, is being gradually destroyed by the way this country is being governed and managed by this Government, and that is why the people want an election. That is why the people are happy today. There is celebration all over Trinidad. [*Laughter and desk thumping*] Text messages are going to everybody.

Sen. Mark: Celebration, boy! Celebration!

Sen. Dr. S. Rambachan: The system is breaking down because there are too many text messages going around, get ready to vote. [*Crosstalk*] You taught me well.

Sen. Mark: Celebration time!

Sen. Dr. S. Rambachan: Mr. President, earlier Sen. The Hon. Enill spoke about performance management. Senator, I am happy you spoke about that because the answer to successful reform is the introduction of a proper performance management system that includes a pay for performance. Now, you said in your contribution that you could not do that in the public service. Well, you got to think outside of the box. If it is necessary, why not bring legislation. But you will not be able to bring legislation because you will be then out of office. So I will bring that legislation to introduce new ways, to have pay for performance, so that pay for performance will cause people—because they are going to be sharing in the wealth they create. In the wealth they create they are going to be sharing it, and do not tell me that you do not have any. Petrotrin workers got some millions of dollars recently. TSTT managers got \$72 million

recently. I wondered why the workers did not get part of it because the managers are not the only ones creating the wealth for TSTT. Every worker is responsible for creating the wealth. [*Desk thumping*] And if it is that the trade union in TSTT did not bargain properly on behalf of the workers, then the trade union should be blamed for not giving good representation to their workers so that they could share in that wealth also. Everyone should share in it.

Mr. President, we have to think out of the box. What we have in this country is cry baby/hush baby management and negotiation. So the baby cries every three years and you take out some sweets from your pocket, here baby, here, hush, hush. You get cry baby/hush baby negotiations and management, but you do not solve the problems. You have to utilize a results driven performance management system in this country. The old adage "what gets measured gets done"; and "what is in it for me" still holds in this society.

Mr. President, if you want to introduce private company type culture, it is not necessary to create a TTRA. You have to work to change the culture, you have to work to change the culture of the organization, and you have to start by getting a mind shift of people. We are concentrating only on systems. That is important, but you have to get a mind shift.

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

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

Question put and agreed to.

Sen. Dr. S. Rambachan: Thank you much, Mr. President. Thank you, fellow Senators. You have to get a mind shift, but a mind shift will only take place if people know the purpose why they are doing things. You may think that there are no success stories in certain Government institutions. Take T&TEC, for example. T&TEC used to lambasted, but how did they get change? How did they get people to put all those street lights in the shortest possible period of time? How did they get it?

Hon. Nunez-Tesheira: Statutory authority.

Sen. Dr. S. Rambachan: No, Madam Minister. You can have any number of statutory authorities. You are missing the point time and again, Minister of Finance. You had to give them the resources. So you gave them the money and they were able to buy the lights. You had to give them their financial resources,

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human resources and technical resources. In addition to which, any change requires commitment from the top, and there was commitment from the top. But most importantly, do you know why that job was achieved? That job was achieved because it was purpose driven.

The people who went about putting up those street lights did not see themselves as working to put up street lights. They saw themselves as part of an army, fighting crime and creating security for the people of Trinidad and Tobago, and that is why that succeeded.

7.15 p.m.

Mr. President, you have to do the same thing. You have to go back to your statutory authorities and get that mind shift; you have to get people to understand what is the purpose behind their jobs. You have to introduce spirituality at work; you have to deal at the level of the spirit of the person. That is the level at which you have to give and that is what is missing in this country. You are dealing with physical elements, but you have missed the spirit of the people; you have missed the soul of the people in this country.

They saw themselves as securing lives, and that was why they moved so assiduously and quickly to put up those street lights, but you are still, Madam Minister, in the paradigm. You are in a different paradigm; you are in the old paradigm, thinking that the statutory authority is the answer. That is the old paradigm. The new paradigm is working with the spirit and the purpose.

I could give you lots of stories, Madam Minister, that show you how the spirit is important and how you can discover it.

In the United States, there was a little factory and there were lots of women employed producing plastic tubes. These plastics tubes were used in medical machinery, including the heart/lung machine and what have you. There was a lot of turnover in that factory and because of that they had trouble recruiting and retraining people, because there was an extrusion process.

The owner of the factory's son decided, "I am going to show these people why they do what they do," and he took them to a nearby hospital where heart surgery was in progress, and he knew the surgeon. While the surgery was in progress, they were looking on from on top, and the surgeon said to them, "I hope that blood flows through these tubes, because you guys made them, and if it does not flow, you will be responsible for this person's life." Those people went back to the factory and stayed there all night. They made a big sign and put it up to welcome the workers the next day, saying, "In this factory we do not produce tubes, we save lives."

You have missed the point. You have been unable to inspire the people of this country to contribute to their fullest potential, because you are dealing at the level of the physical and engaging in cry baby/hush baby in negotiation and management, which is to the detriment of this country.

Hon. Nunez-Tesheira: You sound like you are on the platform. [*Crosstalk*]

Sen. Dr. S. Rambachan: Mr. President, I thank you; I think you are enjoying my contribution. [*Laughter*]

The Family Court is another very successful customer centred delivery oriented place. Why can you not use that model and fix all the courts? You cannot say that people cannot perform, that people cannot change; you cannot say that the public service cannot be reformed. It is just that you do not know what to do. I know what to do, because as a professional I am engaged in change management, to the extent that in St. Lucia I was engaged in a project with the IOB in 80 schools. The very permanent secretary there is now working for the Ministry of Education putting in the same models we put in St. Lucia. [*Crosstalk*] That is a fact.

Sen. Piggott: Advertising.

Sen. Dr. S. Rambachan: I will never be given the opportunity, once the politics plays as it plays in this country, of making the contribution I could make in my country. I am committed to this country. I will make it, because we will be sitting on that side, in less than three months, and we are going to make that contribution. [*Desk thumping*] [*Laughter*]

Sen. Browne said to Sen. Assam, "You have to mash up something to fix it." Well, "yuh mash up" the National Broadcasting Network (NBN) and you created CNMG, and yet they reported a \$74 million loss last year. You break up BWIA and you created Caribbean Airlines. You said they were making a profit, but you are not telling us what is the real subsidy you pay every year to Caribbean Airlines, which is hidden in the gross profit or whatever they are suggesting. Tell us, Sen. Browne, please, how much are the annual subsidies you are paying and for how long you are going to be paying these subsidies to Caribbean Airlines.

Sen. Browne: Did I not answer that in a question you asked, Sen. Mark?

Sen. Dr. S. Rambachan: Mr. President, they say with change you have to think outside the box. When DVDs came into this country, cinemas said that everything done for them. People really started to buy DVDs; they went to the comfort of their homes, made their popcorn and watched the DVDs. The cinemas

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did not realize that people were fed up of going in those dilapidated conditions to see a movie. Movie Towne came in and provided an environment in which people, instead of paying \$15, were prepared to pay \$45 to go to Movie Towne. Movie Towne sold one million tickets last year, \$45 million. They provided a new experience. They began to think outside the box. You are not thinking outside the box; you can change.

You are not thinking outside the box; you are living in the box and you are burying yourself in the box as you would do in the next election. [*Crosstalk*]

Sen. Browne: I hope I do not have to make you chew those words. [*Crosstalk*]

Sen. Dr. S. Rambachan: I call on the hon. Minister this afternoon to do the decent thing. Minister, you said that we are not going to go into committee stage; that is unfortunate, because there are many amendments. In any case, the matters are beyond our hands. Given that the Prime Minister has advised His Excellency to dissolve Parliament at midnight tonight, it is clear that you are not in a position to accept any amendments, not that you want to accept any amendments, because you do not want to suffer a defeat at the hands of this Parliament today, and that is your right.

I think a decent thing to do would be to withdraw this Bill, adjourn the Senate and let us all go from tonight and join with the people to vote out the Government of Trinidad and Tobago and to provide a decent government, one that cares for people, one that celebrates the lives of the people and one that will have a mandate to return this country to a place of beauty and glory.

I thank you.

Sen. Michael Annisette: Mr. President, today this debate has created all kinds of lessons for me. I have gotten lessons in management, performance management and all the other things, but what I have learned in life—and we talk about spirituality, but spirituality is always grounded in living in the present, not in the past and not in the future, because the past has gone, the future we cannot tell and we only live in the present.

Having said that, my concerns I would want to express have to do with some fundamental issues that I hope in the new dispensation would be looked at in the context of the protection of workers' rights.

I do not share the view that successorship of a union is something you should not take on board in this transformation. I say that in this context, and I am hoping

that a Bill would come to this Parliament which would speak to that fundamental issue. There are precedents and laws that speak to it. Let me make it clear in terms of setting up new institutions to deal with what is happening globally and internationally, because the world has changed drastically. The whole question of how customs operate has changed drastically.

[SEN. PROF. RAMESH DEOSARAN *in the Chair*]

Could you advise me how to address you, Mr. President, Acting Mr. President, Mr. Vice-President? Let me know what the protocol is. [*Desk thumping and laughter*]

Sen. Prof. Ramesh Deosaran (*In the Chair*): Acting Vice-President.

Sen. M. Annisette: The issue of successorship is not new; it is not something that is new. If we are making some fundamental institutionalized changes to speak to what the paradigm changes are in the global world, the laws governing labour representation should also change to keep in sync with what is happening.

This is from the Treasury Board of Canada, which reads:

"In common law, an agreement binds only the parties to the agreement. Over the years this notion has been altered as labour legislation in all Canadian labour jurisdictions permits collective bargaining rights to flow through changes in ownership as long as there is a continuation of the same business. Legislative provisions allowing for succession are aimed at preserving bargaining rights from being eliminated as a result of a sale, transfer or other disposition of a business. In essence, the union(s) retain(s) the bargaining rights and collective agreement(s) remain in effect in these circumstances."

I am hoping that in the future some legislation would come to this honourable Senate which speaks to that, so that when we are having these fundamental changes, be it private or public sector, the question of the union having to go and seek recognition again would fall by the wayside. I think it is a disservice. I think we are blinded, that when we are changing laws, we are not changing the labour laws to reflect the fundamental changes that are happening globally. That is something that has been sorely lacking and needs to be put into this Bill.

Concerning the issue of customs and all the other issues, I want to live in the real world. There are fundamental issues happening. I am a docker and we know what the issues are. I honestly believe it has nothing to do with training, retraining or performance management; it has to do with a fundamental paradigm shift that is required.

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I want to agree with some of the utterances; it requires a cultural change, a transformation of thinking of individuals in terms of what is their responsibility to Trinidad and Tobago. Far too often people go on a job and see the job just as a job and they do not understand the importance of what they are doing. Let us not be blinded to the fact that there are issues, because of the changes that are happening.

I was in Singapore. You are able to go online and make all your declarations and then go to the port in Singapore and get your container in five minutes; that is a reality. We should aim for that kind of excellence, because we are competing in a global market. We must have the instruments, the tools, the systems that are in place in order for us to compete. It cannot be, it must not be that in Trinidad and Tobago to clear cargo, when you go to the long room, it sometimes takes you three, four or five days. I am not going to get into the blame game of who is responsible or who is not responsible, but the fact is that it interferes with our business, it makes us inefficient and it makes us less competitive in a global market in which we are competing. Therefore, changes have to be made in order to speak to those fundamental changes happening globally.

[MR. PRESIDENT *in the Chair*]

There is another issue I want to deal with. I have a serious concern, obviously from my background, about the whole question of contract labour. I should not be sharing, but I am almost certain that the research would have been done. There was a major Supreme Court judgment in 1972 in India which talked about contract labour. It was between Standard Vacuum Refinery Company versus their workers.

7.30 p.m.

And in the judgment some of the fundamentals that came out stated as follows:

- If work performed by contract labour was essential to the main activity of the industry, contract labour should be abolished.

It went on to say:

- Where work is perennial and must go on from day-to-day, you should not have contract labour;
- Where work is accidental you should not have contract labour.
- Where work is incidental to and necessary for work of the factory or a company, you should not have contract labour.

- Where work is sufficient to employ a considerable number of wholetime workers, you should not have contract labour.

And I am putting this so we can begin to understand what the concept of contract labour is and, therefore, if we are talking about moving forward, we must not do so in one way only, but in a total global way. Therefore, the question of contract labour in the context where there is continuity and the work is perennial, should not be an approach that the Government or the private sector must take in Trinidad and Tobago.

Contract work is not decent work, it has all kinds of limitations, it creates all kinds of disadvantages to workers and, therefore, if there is not a need for contract work as we know what it is—if it is a work for a specific time for a specific period, and a specific job to be done, you consider that for a time frame as contract work.

How can we honestly argue and say if there is a transfer of an entity into a different dispensation, but the job will continue and it has to continue and it is the same job, how come that job now becomes contract work? I think it is something that we ought to take on board because we are dealing with human beings.

My concern is that notwithstanding what you say about the Bill, you cannot divorce the Bill or the institution from the fundamental and most critical ingredient in any operation which is your human resource, and I think we have been making that as a fundamental mistake. You cannot separate the Bill from the workers because if you do that, you are going to be flawed in your analysis.

The Bill is just a Bill. If you do not have workers to drive the entity, TTRA will not mean anything and, therefore, the issue of trying to deal—and that is why I made the fundamental point that there must be a negotiated settlement and people did not understand when I said that in respect of this matter. There must be a negotiated settlement because at the end of the day if you do not have buy-in from the workers who are expected to do the job there, no amount of new organization is going to change anything. I am making the point, too, that transformation must start with the individual.

If we do not have that transformation from the individual and that change and that new perspective, then the institution is just an institution and would mean nothing at the end of the day, and the deliverables that we are looking at would not materialize.

I want to read into the record a letter dated March 01, 2010, Successorship of Trade Unions issued by my good self to all the affiliates of NATUC:

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"Dear Comrades,

The issue of successorship of Trade Unions in situations where the Government"—and/or private sector—"intention is to form a new entity to do the same work of the old entity is an issue that I believe NATUC should take a principled stand and use our collective powers to ensure that the right to successorship in these situations are protected in the interest of the workers.

I have noted with concern the subtle attempt to decertify the PSA with the setting up of the new Trinidad and Tobago Revenue Authority (TTRA). The arguments that are being used...for not extending the bargaining rights of the PSA as it relates to the TTRA in my view cannot stand scrutiny and if allowed to succeed, can have dire consequences for the Trade Union movement.

Additionally, while discussions are being held with the relevant Trade Unions with respect to the transformation of the local Government, I have noted with concern that no provisions have been made for the successorship of the Unions in question in the new local government structure.

Given the above, I will strongly want to recommend that an urgent special meeting be held to discuss this matter given the urgency and gravity of this matter on Thursday March 4th 2010 at 3:00 p.m. at the Executive Hall of the SWWTU."

That was a letter that I had sent out to all my NATUC affiliates. We had that meeting and we wrote the hon. Prime Minister in respect of having a meeting to discuss our concerns relative to that whole question of successorship.

So those are some of my fundamental concerns, and I want to suggest, because I heard from the Opposition and I am asking the Government that we must bring a Bill that speaks to that because a case study in the United States—which I do not want to burden you all with—speaks to the same issue of successorship in the kinds of situation that is happening with the transfer of workers from an old entity but into a new entity that carries out the same functions, or basically and fundamentally the same functions and, therefore, there is not any fear that the Government should have in bringing a Bill to be passed in Parliament that would put an end to that question once and for all. So if you have to make any changes in any new entity, the trade union movement would not have to be arguing whether or not to put it into the Bill every time a Bill comes. I think it is a principled stand and something the Government should take a serious look at in order to avoid this fallout.

Finally, as we say we are not going to vote on the Bill and I do not want to burden this Senate, but I just want to deal with another fundamental issue. It relates to the Bill, and it does not relate to the Bill technically, but I have raised it already. The issue of meeting with the trade union movement in a tripartite way to deal with some fundamental issues which I have raised already, the question of the offer of the 3 per cent: 1/1/1, this has created a lot of havoc in the minds of the trade union movement.

I think there must be a mechanism where we should be able to meet with the Public Sector Negotiating Committee which sets those policy decisions and directs state enterprises and entities and there is no meeting of the minds with the Public Sector Negotiating Committee.

We must be able—and I am pleading—to influence the decision, or at least have some kind of discourse in order to deal with that fundamental issue because we need to know what the facts are and what was operative in the mind. Our union, for example, has about five different contracts that are outstanding: IMA, port authority, National Flour Mills and I can go on, where these proposals have been made.

We submitted our proposals six months before the expiry date, it took us about 18 months before we started one, and there were two. We are now into the last year and we cannot get any movements from the management in respect of the proposal of 1/1/1 because they say that is the mandate, and we cannot meet the parties who have set the mandate to argue and influence why we believe that should change.

The point I want to make, is that, yes, there need to be fundamental changes and I think, coming out of what happened with TTRA, I am happy in the context that what was demonstrated is that when people put their minds together and go around a table without any egos and set preconditions, that a resolution can be found. What that does is demonstrate that dialogue is critical, necessary and as long as you have dialogue and people are talking you can have solutions to problems. And the time has come where you need to have faith in the trade union movement.

Why do people think we are militant and they call us all kinds of things? I think if you really embrace us, we can find solutions to any problems and dialogue is the answer.

Thank you.

Sen. Gail Merhair: Mr. President, I thank you for the opportunity to contribute in this debate and on this Bill to establish the Trinidad and Tobago Revenue Authority. I can say safely with great certainty that this Bill has caused me to have more consultation with various stakeholders than any other piece of legislation I have had before.

The hon. Minister of Trade and Industry said something yesterday and it is extremely important. He said: "Organizations have no memory, people do." And I think that is extremely important because this legislation affects the lives of many people; not only those who are employed with the Trinidad and Tobago Revenue Authority and the customs and immigration and so forth.

I think this issue has really and truly been a public one in terms of what I have seen in the public forum in terms of various discussions and debates. With that in mind, I would like to read some of the comments I have collected during the past couple of weeks.

This first comment is from Rodger Douglas and it was said on March 02 in referring to the TTRA:

"I actually think its very well conceived and absolutely necessary to increase the tax take received (stop the leakage of \$8 Bil) per annum. I am against deficit spending and see this measure as a way to significantly narrow it.—This is my macro view.

I think the staff shortage they have had there for years, mostly a function of the Public Service Commission's general incompetence in these areas as many others (ministries) needs to be addressed. Nor do I believe you can promote merit in the context of a 'jobs for life' environment."

He goes on to state:

"The business about the Govt changing their position in 2009 or whatever, is totally bogus—the time to worry is when Governments don't ever change their position on matters.

There is however, one element which worries me, and that is if you make the current workers redundant, with many being inefficient, or corrupt or both, BUT they have specialist skills... then how do you avoid rehiring them under new arrangements? This question, I haven't seen asked, let alone answered anywhere."

He goes on:

"Nor is it true to say people will be put on the 'breadline' since in total there will be more people working there-not less. It's just that they will not have the 'protection' of cradle to grave jobs i.e same terms as most of us."

7.45 p.m.

I go on to another gentleman, Mr. Haley Anderson on March 02. He goes on to say:

"...one cannot mention political interference on the group without having to answer to the 'efficiency' counter argument. It's a case of which came first for me on the issue...political interference in the Public Service or inefficiency. Everyone, including myself, cannot see beyond the service we get at any state entity...Licensing, Immigration, Customs...so it's hard for most to understand how thing(s) arrived at that state. But that is beyond the point,"

He goes on to say:

"I think the PSC should be made more independent and revitalised. I also think that staffing the new revenue authority should not be left up to a board. Why? Because tax collection is the job of the state, and state employees should be employed to do such jobs. There remains questions (sic) of accountability... in this new arrangement as well.

But my main concern is the conflicting messages we are getting as I mentioned on the group wall, because it's the big picture that is important...not the little nitty gritty the PSA keeps hanging on to."

I go on to also quote—I guess most of you would realize that this was a discussion taking place on Facebook Wall—the response given by Louis Nurse, and he works with the Ministry of Finance and this is on March 04. He says:

"...the processes, procedures and policies for the management and collection of national revenue have to be re-engineered to meet the changes in the behaviours of customers, taxpayers and travelers "

He goes on to say:

"The revenue leakage from poor systems, compliance and management focus is huge. The workers are persons who are public officers clerks who did not engage in Continuous professional development so at this time they cannot reapply for jobs since the market is very competitive and their function in the former organization is either redundant or they cannot be accommodated. The

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unions are reacting in the typical fashion but the TRA is being established by the Parliament which makes the union's position very tenuous. I think that the TRA is the best choice and it has been proven to be successful in other countries."

On March 07, Mr. Nurse also writes:

"The Model that was used at TTT, BWIA, Caroni is the best model Clean Break. The idea of a soft landing for employees is to enhance the VSEP package. The bottom line is management of change the plantation economy view is that the Government has to provide employment for persons regardless of their development choices."

He goes on to say:

"... 'clean break' to improve the efficiency of the organizations. We cannot saddle the future with the baggage of the past then the whole exercise would be in vain."

He goes on to state:

"A hybrid system means that we continue to accommodate persons who are redundant and obsolete it may have a social or political purpose, but in terms of organizational development and change it lacks credibility and purpose."

Now in another article of Thursday, March 18, 2010 in the *Newsday*, entitled: "We shall prevail" by Leiselle Maraj is a response to the TTRA by the CEO of the Trinidad and Tobago Chamber of Commerce, Miss Catherine Kumar who states:

"The efficiency that takes place right now in those very vital divisions (Customs and Excise and the Board of Inland Revenue), the time it takes to get certain things approved, and a lot of other things have to be dealt with. We support a lot of the things the TTRA Management Company said would be addressed which is being able to hire, being able to dismiss, being able to put strict performance measures in place or proper best practice ensuring accountability at all levels, ensuring that there is proper corporate governance. All these things are values we espoused to and they are saying these things will exist in the authority so on the assumption that these things happen and we end up with a better institution than we had before under the Revenue Authority, we certainly support it."

She goes on, however, to state and to point out:

"...that there could have been more discussion to accommodate the input of labour in the process. She said the chamber believes that there is still some

uncertainty among workers as to their job security in the future. ‘Even in the private sector when you have changes in ownership, the first thing the private sector does is try to let the employees know what their future would be so that they could come to work and still do a good day's job.’’

In an advertisement placed by the Trinidad and Tobago Manufacturers' Association in the *Newsday*, page 20, they issued a statement saying that they support the Revenue Authority and the reason that they support the Revenue Authority is because it aims at ensuring:

- “Transparency, accountability and efficiency
- Business development and increased competitiveness internationally”

They said that they expect:

- “Improvements to Customs and all Border control activities to ensure timely and efficient clearance of goods on the nation's ports
- Timely payments of VAT refunds which will translate to a more dynamic and robust business sector”

Now, Mr. President, as I told you before, I had several discussions. I have held discussions with the President of the Public Services Association, Mr. Watson Duke and I also had discussions with Dr. André Vincent Henry. I think, generally, from reading what I have just read in all those articles, the general consensus is that most individuals want a competent, efficient, transparent and effective Revenue Authority. I think that is what is needed and any establishment that promises that is one which is going to receive a lot of support from the citizens of Trinidad and Tobago in general.

But if I should take my private sector hat off a little bit, in coming to Parliament a couple weeks ago—and, you know, sometimes, there is a lot of traffic coming up the streets—I looked at the protest that was taking place along the streets of Port of Spain and as a citizen of Trinidad and Tobago I must say that I was deeply moved. What I saw in those faces were people who were filled with uncertainty, people who were disillusioned. What struck me most was that normally when you see a protest and you see people with placards, walking and chanting on the streets, you know they are seasoned protesters; you know they are accustomed with this type of behaviour, marching, clapping and so on.

But when I looked at the faces of some of these individuals walking the streets of Port of Spain, it occurred to me that these people never did this before. What drove them or what motivated them to actually leave their comfort zones and

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walk the streets of Trinidad and Tobago? You know, I must say from a human aspect, I felt for those individuals, because I could have sensed on their faces that they probably had loans, mortgages, children to go to school; they probably had bills to pay like most of us. I saw within them that amount of uncertainty and unpredictability that states that they did not know where they were going.

That, to me, speaks volumes for us as a society. We should not, at any point in time, cause any individual—whether they are your friend, your colleague, your employee—to feel that way about themselves. It means that we are actually promoting negative attitudes. We are actually not promoting in the workplace an environment that people will be productive and efficient.

Be that as it may, I can tell you lots and lots of horror stories coming out of the customs and Inland Revenue and so on. I have had private sector colleagues telling me that it took them nine months to get a VAT refund cheque. If a business is in its early stage of development, getting a VAT refund of \$200,000-odd and it takes nine months, it means that it is jeopardizing the existence of that same business.

Some people tell you that just in order to get a document signed the number of days it has to take. The woes and horrors of all these organizations are, in fact, extensive. I think what most people want, again, is efficiency, competency, and they want something that works in the interest of their organizations and, by extension, once these arms of revenue collection are, in fact, improved it would mean less bottom line figures for customers when they go to purchase their goods and services. Because, obviously, when the people in the private sector pay more for the length of time that their goods stay on the port or when they have to pay more for an officer working overtime, it obviously would be incorporated into their operating expenses and that cost will have to be passed on to the people of Trinidad and Tobago. So when you look at it, it means once this Revenue Authority works or any revenue authority, the citizens of Trinidad and Tobago, can, in fact, benefit.

Now I would like to quote from the same paper that Sen. Dr. Surujrattan Rambachan quoted which is the “IMF Working Paper, Fiscal Affairs Department; Revenue Authorities: Issues and Problems in Evaluating Their Success”, prepared by Maureen Kidd and William Crandall, authorized for distribution by Jean-Paul Bodin and Katherine Baer. It is dated October 2006.

Now this Working Paper document did an analysis of revenue authorities worldwide and I would not bother to go into what Sen. Dr. Rambachan had, in

fact, quoted, but what I must say is that the paper points to the fact that no proof has been given to the fact that revenues would be increased with the establishment of a revenue authority. It would have been my hope that the hon. Minister could have answered this question.

Secondly, the paper also points to the fact that the establishment of a revenue authority has not proven to be effective. The paper also speaks to, why not public sector reform. I think many of my colleagues spoke on that issue and it is, perhaps, a real issue that raises a lot of questions: Why not public sector reform?

As a matter of fact, we should be examining that, I think, in the future, because we cannot come with piecemeal legislation and want to get things working; to get things efficient. We are going around it in a manner that seems to suggest that we are, in fact, trying to move away from what is in the Constitution of the Republic of Trinidad and Tobago. So it is with that, that I would strongly suggest that in the future, we definitely look at public sector reform.

Now in summary, this paper—and I will just read three of the summary points, and I quote:

- “1. Establishing an RA should not be viewed”—in any way as the be all and end all—“Creating a (sic) RA is clearly expensive, may take a long time and require significant effort, and does not actually improve tax administration effectiveness.
2. Before considering a choice of governance model, revenue administrations should clearly identify and articulate problems and deficiencies, and consider strategies for reform and modernization based on international best practice.”

The final point I will read in the summary is:

- “5. The RA model alone does not lead to improved effectiveness and taxpayer compliance—its establishment must be coupled with a serious commitment and plan for reform. In fact, modernization of tax administration is ultimately the result of improvements in organizational structures, systems, and processes, including well designed programmes of services and enforcement, sound allocation of resources, and effective management. A move to implement a new governance model for the revenue administration can only be, at best, a first step.”

So I would like to make some recommendations. In the first instance, I would have liked to have an internal affairs division. What I mean by internal affairs division, an internal affairs division external to the people that work there. You

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cannot have the people in there looking after themselves. You have to have someone from the outside looking at any allegations of any sort of activity that might have been perceived.

8.00 p.m.

There is the need—and I found that this is lacking—we need to bring back the tripartite agreement between business, labour and government. That is extremely important because legislation comes before us from time to time and I find that various stakeholders, especially these two, have not been consulted by the Government. In future, they should be. We need to re-establish that tripartite agreement so that all three entities could be on the same page.

I also would like to see, as recommended by the IMF Report, the need for stakeholders to be represented on the board. I think you only have one private sector individual on the board. I suggest two and that labour also be represented on the board.

The concept of the Revenue Authority is an extremely good one. The idea needs to be properly managed. After all, this institution will be collecting 90 per cent of the revenue earnings of Trinidad and Tobago. We need to be careful how legislation is worded; how it comes across. The whole idea of the Revenue Authority was not very well put across to the people and, as a result, there was a certain element of uncertainty. In future, such legislation needs to be brought across in a manner that is palatable to the people of Trinidad and Tobago.

When the Minister of Trade and Industry was speaking yesterday, he was interrupted at least four times. That is because persons sitting in this very Chamber did not understand what was written in the legislation. He had to explain it so many times. I even heard Sen. Assam say that he did not understand that. Why did you not say so all this time? If people had understood, it would have made the transition a little less of a heartache.

This is a very important piece of legislation—I want to re-emphasize that—and we need to take our time with it. Public sector reform is much needed; but I do not think we should bring any legislation with a piecemeal approach.

Mr. President, I thank you.

Sen. Dr. Rolph Balgobin: Thank you, Mr. President. I rise to make a contribution on this matter and would like tonight to confine my talk to three broad areas that I think are worthy of consideration. Regardless of who eventually implements this, it is something that all sides need to think about and to contemplate carefully. My contribution will be made with that in mind.

The three areas I want to speak about relate to performance; the role of labour; and, finally, governance and structure as they relate to specific sections of the Bill.

In terms of performance, while we can debate the intricacies of the Bill, there is no doubt in my mind—and I have not heard in anyone's contribution any compelling evidence to suggest that there is not—that there is a performance problem. We have heard that more revenues have been collected than were budgeted for. There were numbers of explanations for that. Outside of that, there appears to be a broadly-held view that there are performance problems here and when you were talking about an uptake of \$1 billion to \$7 billion, then the magnitude of the problem is by no means minute.

As we contemplate this Revenue Authority, we need to be clear that something is very wrong with the workings of part of the public service and has been for a long time. To be fair, as a country, we have been wrestling with this for more than two decades. How do we deal with it?

We have heard from some of the contributors on the Government side that noble experiments were undertaken; and we heard from this side of the Chamber that that may not have worked and we are left with the same issue. There is a performance problem.

We have an entity or entities such as the Public Service Commission, which is almost entirely silent; a Police Service Commission, some members of which, in my view, are somewhat unhelpfully loud and, somewhere inside this model, appears to be the embedded logic that these commissions are supposed to insulate public officials from politicians. I think that the idea is noble.

We heard from Sen. Prof. Deosaran earlier that that insulation is important because the motivations of someone in office can often be to remain in office. So the idea of that separation and that protection is laudable. However, those protections cannot exist to the extent that the people in these organizations are a law unto themselves. What those conditions breed is dysfunctional culture and that is the public administration in this country; that is what the national conversation has been about. How do we transform the public service?

I do not like the term public sector reform at all. If I were a public official—I do not think it is fashionable in a post-colonial society to say public servants anymore—and I were told everyday that I am in need of reform, that would put me in an attitude where I would not be willing to accept whatever was put forward. Criminals are reformed. I am doing the public duty.

We have for 20 years been talking about public sector reform and the public service, Mr. President; not just the people involved in customs, Inland Revenue and so on. The public service is a really interesting animal because it is an entity which is filled with members who, individually, almost to a man or woman, would agree that transformation is required, but who collectively appear to resist change.

We need to recognize, whatever structures are proposed here, that structures do not break organizations. Culture does and if you have a dysfunctional culture, then you will have problems in the execution of the functions of whatever organization this culture exists in. That is where, when you have dysfunctional cultures, when you have outdated or outmoded routines, the nonsenses that Sen. Dr. Rambachan rightly highlighted come about. You develop routines for doing things that are wrong and they can persist for many years without change because no one is walking around and saying we need to change this.

Before Caroni (1975) Limited was dealt its final blow, it was being transformed for almost 25 years. When you keep throwing transformation efforts at people, telling them they need to reform, sometimes you will get an unproductive result. But it does not change the fact that change is required of these people because the culture can sometimes become dysfunctional, particularly when they exist and operate in a system that insulates them from the imperatives of change. I thought that Sen. Drayton's and Sen. The Hon. Enill's comments in this regard were very important and telling.

I come back to what Sen. Dr. Rambachan said because I found it very important when he asked the question: Why do good people perform poorly? This is a question that organizations grapple with all the time. Why do good people identified as potential winners get into a system and do not do well? It is the culture in the system. It is not just the rules. Changing the rules is one thing; but changing the culture is extremely important. Culture is not just constituted of rules; it is values, behaviours and routines. There are lots of other things inside there.

For my contribution, it is very important at the outset that we reposition this notion of performance and say that there is a serious performance problem. Sen. Merhair suggested that there are many horror stories—and there are many parts of these agencies that do not work or work badly and leave a really bad taste in your mouth when you interface with them.

In my private sector life, the experience is more often than not negative. I have seen instances where power has been abused. There is protection for the

public official, yes, but what about the citizen? There is none for them because you are faced with a colossus and the agent in front talking to you, dealing you these hammer blows, is speaking with the power of this colossus that is behind him or you.

You have almost no recourse or you feel that you do not. Maybe there is a mechanism somewhere and this, of course, requires some rebalancing. So there is a performance problem.

That sorts of raises the question: Who is not performing? And, of course, it would be the people. All of the people are not bad; it cannot be. The normal distribution curve or some sort of curve must surely apply. So there are going to be dynamos; there are going to be cruisers and there are going to be losers. The question is: Do you have a typical bell curve? Is it skewed to the right, which you would want? Is it skewed to the left, which you absolutely would not want? Then there is an organization that is filled with people who are resistant to change and who are operating more dysfunctionally than not.

As I looked at the newspaper ads promoting this authority over the last several months, I saw a large photograph of an obviously energized Dr. André Vincent Henry, who looked happy enough. Then there are some small photographs of staff that attended and they looked, even as you squint to see the photograph, distinctly unhappy, afraid and upset; their body language was closed; someone was talking to them, but maybe they were not listening or, if they were listening, they were listening cynically because they are afraid to confront change of such a magnitude that they do not know how to deal with it.

8.15 p.m.

The unfortunate message is when you resist change for a very long time, when it does come, it is going to take the shape and often the size of a tsunami. It is going to overwhelm you. You cannot resist it for a very long time and then it comes in drips. It does not happen like that. You put up those walls and reinforce those walls and then one day, a very great flood will come and just wash it all away. This seems to be the kind of situation that is happening here. I can understand their fear. The only antidote to that is information and engagement. Engagement is required and information is required and we should not be talking at them, we should be talking with them. We should listen to what they have to say.

I saw thinly-veiled threats reported in the newspapers and I was very disappointed by that, because these are things that you do in school. These are not things that grown people do: “Well if yuh doh do what I want yuh tuh do, I cyah

be responsible for the consequences.” The last time I heard rhetoric like that, I was in my teens. How does this have a place in adult society? How? You have these thinly-veiled threats and days of rest and reflection. What is that? What is that? Really, you can find a legal way to do it, I am sure, but everybody knows what you are doing. I do not think that is a positive and productive way to move forward. I think that a different type of approach is required.

People talk often about economic development and about the BRIC countries: Brazil, Russia, India and China. They say these are fantastic economies, they grow at a faster rate than the rest of the developing world and they are transition economies. We find all sorts of names to call them. More recently, we have seen the rise of PIGS, that would be Portugal, Italy, Greece and Spain. That counterbalance has come about in the world. What is very interesting is to look at what happened in Greece, when they came very near to credit default some months ago. The biggest force for no change in that environment, even when faced with a financial catastrophe, was labour. Now, how could that be? How is it people here are talking about reviving tripartite logic and everyone has a seat at the table, but you cannot sit at the table at all? What you want is no change. The world is changing. Every day you generate new skin, so everybody is changing.

In this kind of environment, my perception is that sometimes labour comes across as if they want no change. I had a difficulty with that because if, again following from Sen. Dr. Rambachan’s comment, you do force field analysis, the way you recognize that any equilibrium in an organization is a dynamic one; it is dynamic equilibrium that is the product of proactive and restraining forces. If you have an immovable object that is driving restraining forces and that is not changing, then all you are going to get is overwhelming proactive forces that will seek to mash up everything and wipe the slate clean and start anew, akin to Noah’s flood. We cannot have a constructive engagement that does not contemplate change. It does not contemplate transformation. The world is changing. We have to change. Our people, our employees have to change. They have to be more flexible and more accommodating of customer needs.

I was surprised to see some of the manoeuvres that occurred and to listen to some of the contributions. I particularly, wearing a private sector cap, took issue with Sen. Joefield’s characterization of the private sector as being rife with nepotism, favouritism and things to that effect. I do not think that the private sector should be demonized in this way; I do not. I think that you find those things everywhere. If the public service was a vessel of absolute virtue, then questions of corruption would not arise. I think that as a society, we have a problem, okay.

But, it is nonsense to suggest that the public sector, the public service and these agencies that are affected by this Revenue Authority, are in need of no change. I think that is wrong.

What I find particularly discomfoting about it, I suppose, is the question I have not been able to get out of my mind: How all of this came to be about the PSA? I do not understand, because they are not attacking the PSA. They have a job to do and they are doing their job, apparently well. So I have no issue with that. The PSA is one stakeholder. There are many other stakeholders. This particular organization proposes to deal with a core function of government, that is, the collection of taxes and the administration of those processes where you collect money for the public purse. The future of this, how this is done and so on, cannot just be something that is determined by the staff; it cannot be. They are one stakeholder amongst many.

I heard the suggestion that citizens were being brutalized, taken advantage of and this is not good for citizens. Really, I do not see how the citizen is put first in any of this; in no change. How is the citizen benefiting? How does that make it easier for a citizen to go into a public office and get better service? How does it make it easier for someone who is running a small or a medium enterprise which, by the way, is what will pull any country out of a recession, not big business, small and medium enterprises. If you take long to process their application for VAT registration and give them a VAT refund, you can kill the business; you can actually, literally kill it. I do not see in the opposition to this, I am talking about outside of this august Chamber, enough consideration about what is best for the citizen of Trinidad and Tobago.

I heard one or two mentions of Vision 2020 during the debate. I can tell from my recollection, the number one point that Vision 2020 made was that public services should put the citizen first; that the citizen should be at the centre of the delivery of all public services. We need a citizen-centric model that helps our citizens to do better. I think that in the contemplation of the TTRA going forward, we should be thinking about that as well; how does this help the citizen better and not how does it help the Government collect more money. How does it help the citizen? How does it make it easier for the citizen? Because the citizen is the person, at the end of the day, that has to deal with this agency, authority, animal or whatever name we give it. These changes are bigger than one stakeholder. I would encourage us to think about putting the citizen first, as we think about the implementation of changes like these.

Given that the change is bigger than those that work there, I would like to come now to my third and final section, which deals with governance and structure. I would not rehash what has been said before, except to say that I endorse much of what my colleague, Sen. Ramkhelawan has said, but there are some things that I find in need of further clarification and probably change, some minor some not so minor, in order to improve the quality of what is before us and ensure its success upon implementation.

In clause 9, I was minded to make the distinction between corporate governance and institutional governance, because there is a difference. Corporate governance speaks to a body corporate, which this does in the preamble. But, there are certain things that corporate governance requires and institutional governance does not and this seems to relate better to an institutional governance model. For example, the OECD principles of corporate governance do not really apply. That being said, what is being proposed by way of a Minister and a Board of Management is that dual governance model that you find in Germany and some of those European countries, where there is a supervisory board and a management board. The interpretation of it and its expression in the document, leaves room for improvement and modification, if this TTRA is to be as effective as it needs to be. For the record, I would suggest some questions and point out some areas that I think need to be considered.

In clause 9(2) for example, as we think about the responsibility of the board, the question arose in my mind: Where does liability lie? Where does the liability lie for the actions of the authority? In corporate governance we have a veil of incorporation that, under certain conditions, can be lifted. You can go after directors in their personal capacity if certain conditions are met. That does not seem entirely clear here. In clause 9(2)(c)(i) and (ii), what was interesting to me was what if a member of the Board of Management were presiding over a frivolous lawsuit by the authority, because they really have no access to information about the legal actions taken by or against the authority, I thought that was interesting.

Under clause 10, I thought the indemnities appeared weak, because the members of the board are only given protection from liability in two circumstances. When bad things happen, they do not ever happen this cleanly. What I would say is structural impacts form and vice versa. I do not think that it is going to be easy for us to say that you are a member of the Board of Management, so you are liable only for part of the operations, but not the other part. It is going to be difficult, I think, to separate that out.

That being said, clause 11(4), I appreciate the inclusion of that requirement, that a person who has an interest in a transaction with the authority, be recused or being obliged to recuse himself or herself, it is in the masculine here, from a matter in which they have an interest.

8.30 p.m.

Under clause 11(5)(b), I think there should be a subclause "(c)" which says that they recuse themselves from the meeting. Even if they are counted as part of the quorum for the meeting in which a decision is taken in relation to something they have an interest in, that is a conflict of interest and, therefore, it should be required, not just that they disclose their interest, but that they recuse themselves and it be so minuted for their protection and the protection of the authority.

Under clause 16, I felt that this required some clarity, because the Minister appoints the CEO and deputy CEO, but the board sets the terms. I question why not just let the board consult with the Minister, and the board do the appointment. I think that what we can end up doing—again, that kind of gray space is reinforced in clause 17(2)(a) and (b), and it begs the question: Who is in charge? Is it the Board of Management or is it the Minister?

It is very clear where the separate authorities and requirements lie but, of course, there are going to be intersection points where, for example, the board has to look at the CEO's performance in relation to the prosecution of their duties as they relate to the things that a Minister would be required to look at under this present structure. So, that two-headed monster, I think, creates some space for a CEO to play in. I think that would be of concern.

Now, it appears that the Minister is the absolute authority, because in clause 19, it says that if you are resigning, you have to send the letter to the Minister and, again, my question is: Why not the board? Now, in clause 19(c), a person can be removed if he or she discredits the authority. How do you prove that? In corporate governance terms, of course, what you do is instead suggest moral failure, in view of the Board of Management. That is something that should probably be changed or considered.

In clause 19(7), I thought it was laudable, coming off Sen. Enill's contribution, to restrict the term for acting appointments. I think that makes a lot of sense. However, I was not clear as to what happens after six months. The Government, of course, is not often known for its speed. I do not know what is the role of the PSNC in this. Certainly, in my view, it is an outmoded logic, and it takes months and sometimes years to get something out of the PSNC. It is not clear to me what

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happens after six months if you have someone acting in a vacant position. What happens after that? Is it that they are automatically confirmed? What process is triggered? It is not entirely clear to me.

This TTRA is governed by this legislation and not the Companies Act, although it does appear to have some of the powers as a body corporate; it can borrow funds and so on. I am not sure why they would want to do that, but I note it.

Under clause 25, I was not clear why public moneys are collected by the CEO and not by the authority. Perhaps, that is an artifact of the legal framework with which I am unfamiliar.

What I would say, however, is that under clause 27, a framework of governance is clearly suggested. If you are suggesting a framework of governance, you might as well do a little more than suggest but, prescribe, given that this authority is not governed by any other legislation. If you are talking about making rules relating to the award of tenders and so on, well then you ought to say that this thing should have an audit committee and a tenders committee. I am not sure about a governance committee, but certainly an audit and tenders committee would be important. We should specify that in order to make sure that this authority is internally consistent and its operations are transparent as, I think, we would all want it to be.

I note the general requirement and that seems to be the case for all state agencies—regular reporting requirements for many persons, strategic plans, annual plans, quarterly plans and monthly meeting and so on. Hopefully, these good folks running this authority will have a very strong administrative capability to deal with all of this reporting, because it can take away from doing the job at hand. With these kinds of reporting, you always run the risk of reporting what you have been reporting which, of course, would be something of a nonsense. I am sure you will agree.

Finally, I want to return to an earlier point that I suggested, and I would make it more explicitly here and it relates to clause 35(1) which speaks to members taking an oath or making an affirmation of secrecy to be administered by a Justice of the Peace and so on, and that is great. I think that this should be expanded to senior officers of the authority.

The modern world—I am sure Sen. Prof. Deosaran would tell you—has moved along, particularly where criminology is concerned. Many organizations and institutions that deal with sensitive information like this, require their senior officers to do regular psychological testing and polygraph testing. I think that is

going to be important for an authority such as this. It is either we put it in here or place it in the rules that govern the authority. I do not know. I think those kinds of tests are going to be very important, particularly polygraph as opposed to having someone make an oath once and then hoping for the best as it were. That comes back to the point that you need good people to make a good system, and this is one of the ways that we can ensure that we have the kind of people at the helm whose integrity cannot be questioned, and I think out of that will come a more positive culture and, hopefully, a more productive one.

Mr. President, with those few words, I would like to end. Thank you for the courtesy of your attention. [*Desk thumping*]

The Minister of Finance (Hon. Karen Nunez-Tesheira): Mr. President, thank you. As I wind up on this Bill—certainly from my perspective being a visitor in the Upper House—at our last few hours of this Parliament, I just want to start by addressing some issues that came up as the various speakers spoke on the Bill. One of the issues, I think, that I can put to bed very quickly but, nevertheless, was repeated here on several occasions by different speakers as if it had not been addressed, is the issue of job security. I think, for the national community, I would like to reiterate that the issue of job security has been addressed by virtue of the agreement that Cabinet has approved and agreed to.

I believe Sen. Joefield is here with us as well as the PSA, and they are the bargaining agent and the union representing the public officers. Certainly, they are in the best place, I expect, to represent and work on behalf of—as the President said to me, Mr. Duke—his principals and, therefore, I think that the issue of how we deal with job security has been properly ventilated. No one will lose their job. Those persons who wish to go into the public service or be transferred to the public service have the choice of taking VSEP, and everyone is entitled to apply to be part of the Revenue Authority. I think the question of job security has been well addressed, so I would move on from that.

The other issue that I have heard oftentimes—even from Sen. Dr. Rambachan and on television on the few occasions that I may have looked at it—is the issue of outsourcing, and today was no different, he mentioned outsourcing. As I have said, on repeated occasions, there is not going to be any outsourcing in the Revenue Authority and there is no intention to do that.

Another issue that I have heard on several occasions is the issue of contract work as if persons working in the Revenue Authority are going to be contract workers. That is not the case. Certainly, there may be persons who would be

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employed on contract, but the vast majority of the employees in the Revenue Authority are going to be permanent employees.

In fact, if you look at the Bill, it makes provisions for the setting up of a pension fund within two years. So, I hope I have put to bed the issue of the job security; the issue of outsourcing; and the issue of persons being brought in to work on contract in the Revenue Authority. That is not the case.

Another issue that came up in the debate which I want to address immediately is the word "President". I cannot remember who made the contribution, but referred to cases and legislation where the President can do certain things. The instance that was cited, with all due respect, "President" means "Cabinet". If you look at the Interpretation Act it says that. So, whilst the word "President" is used, it means the Cabinet of Trinidad and Tobago.

Similarly, when the word "Minister" is used as it is used in this legislation, it means the Cabinet. The Minister of Finance does not act on his or her own authority. He or she acts as part of the collective responsibility, and that is really the basic premise upon which the Westminster model of governance was premised and, therefore, when the word "Minister" is used, it is a collective responsibility. I work and I represent part of the Cabinet, so "Minister" means "Cabinet".

Another issue which arose was the issue of consultation. I want to say, perhaps, that it is unfortunate that you would think that; you have said it so many times and communicated it so many times in various ads whether on the television or whatever. We have spent a considerable amount of energy and time—the Communications Division of the Ministry of Finance—on several ads, both print and electronic on the issue of the Revenue Authority, educating persons about the Revenue Authority.

Even before that, and certainly before I became the Minister of Finance, Minister Enill had the portfolio to deal with the Revenue Authority. I inherited it from him and there was a committee set up, and part of the consultation in that committee was members of the PSA. When I came on board, the former president was part of the consultation. All the documents that we produced and everything that we had, we shared it. She was part of it together with Mr. Stephen Thomas. They would attend all the meetings and there was always full consultation with the PSA. I want to put to bed the idea that there was no consultation with the PSA. I know that there is a new president, but I do not know if the president makes the PSA. The PSA is an organization and there are different heads, but our consultation has always been with the PSA.

Now, having said so, we went through several consultations with the staff. I have a document here and actually it needs updating, because it is fairly old. I am not going to go through everything. I said this in the Lower House and it is in the *Hansard*, but I would repeat it again.

On September 10, 2008, we had two briefing sessions with members of the Inland Revenue and Customs and Excise Division—344 officers at Crowne Plaza; September 11, 2008, 301 officers at Crowne Plaza; September 12, 2008, two briefing sessions with members of the Inland Revenue Department and the Customs and Excise Division and this went on through 2008. We continued that consultation on that collaboration, because there was collaboration.

To put this question of not caring about the workers to rest, one of the things we did very early is to set up a hotline. We also compiled frequently asked questions, and those frequently asked questions were based on questions that workers asked us. They called in, and based on their concerns, we put together a pamphlet—there is more than one that has been circulated—based on questions that the workers had asked us.

Contrary to what probably is the popular position that one may want to take—I use the word "popular" advisedly—many of the workers from the Inland Revenue Department and Customs and Excise Division welcome the Revenue Authority. I can say that even the union welcomed the Revenue Authority. Their concern was the transition model that we were using. [*Sen. Joefield on his feet*] I will give way to you Senator.

8.45 p.m.

Sen. Joefield: Thank you, Minister of Finance. Mr. President, we just want to make it clear that based on the arrangements or the discussions that were being held which saw a memorandum of agreement being made, no agreement has been signed and we are concerned about that. We are concerned that after all the discussions made between the parties, we have not been able to get an agreement signed. That is for the record.

Hon. K. Nunez-Tesheira: Mr. President, I am quite shocked, and I say this to the national community, to hear the Senator say this. Now I am speaking with this new information, but I can assure you and Senators of this honourable Senate and to the President, that the document that we took to the Cabinet—as a matter of fact, the first document that we took to the Cabinet which really represented a meeting of minds, and which we thereafter discovered from the PSA President Duke that it was unacceptable to him.

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The Government again sat down—in fact Minister Enill and Sen. Dr. Saith sat down with the PSA President Duke and carved out a new document. That document was initialled on every single page, including the changes that were made, and that was taken to the Cabinet and the only reason it was not signed by both parties on the dotted line was because we needed to go through the formality. I have to say formality because I think it represented, essentially, the first document that apparently was not reflecting the views of the PSA.

But nevertheless, the document, I have seen it and the initialling was done on every single page. *[Interruption]* Well, you see that is what we talk about, a gentleman's agreement. It is a question of trust and confidence. If you wish to stand on technicality and say—and if that is a reflection of what we have to expect from you *[Interruption]* then we know that we cannot take your word and we cannot trust you. Because Government and no business and no relationship, whether it is a personal or professional relationship can exist unless it is based on a foundation of trust and confidence. It has to or there is no basis. There is no basis under it. *[Desk thumping]*

And on our side, if the PSA president—*[Sen. Joefield stands]* and I am not giving way again, you have an opportunity Senator, to give your view again, because I am shocked at that. *[Interruption]* Yes, they should be ashamed, because that document has the initials of—and by the way—the President of the PSA, who, on every page, including the changes, were initialled and it came to the Cabinet. *[Interruption]*

If you want to say, Sen. Oudit—because I see you nodding your head—that is your standard, that you cannot trust the word or you cannot have confidence in them, then there is no basis for a relationship, and that is all I need to say on that matter. *[Interruption]* I am not giving way again Senator. *[Interruption]* Yes, when I asked if the document was signed, Sen. Dr. Saith said to me that President Duke was calling him anxious to sign the agreement, and I have nothing more to say.

This is not a question. You can spin it how you want after we leave this Senate. You can spin it how you want. *[Interruption]* I am telling you, you can spin it how you want. I am going to tell you, those are the incontrovertible facts. Those are the facts! Whatever you say after this it would be a spin which I do not wish—well, in any event I do not expect anything different, because I had the opportunity to hear on several occasions, Sen. Dr. Rambachan, and I mean no disrespect, no matter how many times you corrected the point about this is not outsourcing, they continued to say we are outsourcing. No matter how many times you said we are not going on contract, they continued to say that.

So, one of the difficulties we have, Sen. Merhair, when you talked about the communication strategy, no matter how many times you say the right thing—the issue of Canada? I can count; I have done an interview with the *Guardian*; I have done an interview with the *Express*; I have gone on CNMG, the point I am making, on several occasions I have heard the question of Canada—[*Crosstalk*] having dismantled their revenue authority as if that is an example of a failure.

I have said it, I do not know how many times I have said this; Canada is not the only revenue authority—there are over 50 revenue authorities. So there are 50 countries around the world that do not know what they are doing. Barbados is forming a revenue authority, Guyana has a revenue authority, Jamaica has a revenue authority, and the point about it is —and the same structure. Those countries have revenue authorities. If revenue authorities are such a bad thing, if revenue authorities do not work; if all of these countries around the world continue to form revenue authorities—and in spite of what Sen. Oudit says, no system is perfect, but if it was so imperfect it certainly would be dismantled. And the only reason—and I am going to say it again in this Senate—Canada dismantled their revenue authority was because they had a revenue and customs authority and when they had the 9/11 attacks, the customs became more involved in border control and national security issues and they had less to do with revenue collection. So there was little synergy between customs and revenue, and as a result in 2003 they passed legislation separating the revenue authority from the customs. It went under immigration and national security.

Sen. Oudit, since you like to do research, I would invite you to go on the Internet and check what I have said. So that is the only revenue authority that has been dismantled. [*Interruption*] It has nothing to do with it being a failure. It was no longer a good fit.

Sen. Oudit: So, would you give way?

Hon. K. Nunez-Tesheira: No, I am not giving way again. I did not interrupt you when you spoke and I listened to a lot of things which I did not agree with and were ill-informed from my point of view. I allowed you to speak and I am now going to address them. I am now going to speak and address a lot of the misinformation that I have heard in this honourable Senate.

Mr. President, before I go into the features of a revenue authority, and the many success stories of revenue authorities, because to every bad story there is a good one—

Hon. Senator: You should wrap up and go.

Sen. Manning: Why, because she is honest?

Hon. K. Nunez-Tesheira: Let me just be on the issue—[*Crosstalk*] Let me speak on the role of the Executive, because one of the issues I am hearing over and over again—[*Crosstalk*]

Mr. President, I am going to have to sit if Sen. Wade Mark wishes to speak again. I know he is anxious to come on this side and wind up on a Bill, but I am sorry, the time has not come and it shall not come, I can assure you. [*Laughter*]

The issue of the role of the Executive—because one of the problems I am hearing and one of the issues I am hearing reiterated several times: The Minister; the Minister has so much power. [*Interruption*] Well, let me just say to those who are willing to hear and be educated, the Executive authority—we know there is the separation of power and we have the Executive authority.

What is the role of the Government? What is the role of the Executive? I am going to quote from a case *Attorney General v KC Confectionery*, the former Bernard, Justice of Appeal, and this is what he said:

“Constitutionally the Executive is the entity which is charged with the responsibility for the economic development of the country, and by and large it is the Body to determine how this is to be charted. There are ultimate constitutional means whereby the citizens can record his disapproval.”

It went on to say, Mr. President—

Sen. Mark: What is the relevance of that?

Hon. K. Nunez-Tesheira:—in another example the role of the Executive.

Sen. Mark: [*Inaudible*]

Hon. K. Nunez-Tesheira: There is a case called *Ranweewa v Ramchandran*—[*Interruption*] I do not know if I am pronouncing it correctly—

Mr. President: Sen. Mark!

Hon. K. Nunez-Tesheira: A Privy Council decision where it said:

“The assessment and collection of taxes to defray the expenses of the Central Government of the country is a classic constitutional function of the Central Government itself. The performance of this function needs to be undertaken by natural persons for the purpose of administering the fiscal legislation on the Central Government's behalf.”

The point I am making, Mr. President—[*Interruption*] The Government—it is not this PNM Government, it is any government—the Executive has a responsibility and it is enshrined in the Constitution. [*Interruption*] That is the highest law of the land. What does the Constitution say? Section 75 says:

“There shall be a Cabinet for Trinidad and Tobago which The Cabinet shall have the general direction and control of the government of Trinidad and Tobago and shall be collectively responsible therefor to Parliament.”

Section 85 says:

“Where any Minister has been assigned responsibility for any department of government, he shall exercise general direction and control over that department; and, subject to such direction and control, the department shall be under the supervision of a Permanent Secretary whose office shall be a public office.”

Mr. President, in addition, we looked at the Exchequer and Audit Act, Part II and it talks about the control and management of public finances. This is any government; PNM, UNC, any government.

“The Minister shall subject to the Constitution and this Act have the management of the Consolidated Fund and the supervision, control and direction of all matters relating to the financial affairs of the State which are not by law assigned to any other Minister.”

Therefore, with responsibility you must have authority. [*Interruption*] This is nothing peculiar to this Government. You cannot put a government to execute and to provide goods and services to the people of Trinidad and Tobago, and a central government function is revenue collection, [*Interruption*] and you say to that Government, you are responsible for the collection of that revenue and you are responsible for ensuring that the revenue is used to provide goods and services to the people of Trinidad and Tobago. You give me the responsibility and you want to fetter my authority outside of what the Constitution of this country provides.

Sen. Mark: What is the role of Parliament?

Mr. President: Sen. Mark!

Sen. Mark: Sorry, sorry, Sir.

Hon. K. Nunez-Tesheira: Mr. President, that is not peculiar to Trinidad and Tobago. You look at all of the examples, every single example and you see the document you quoted from Kidd and Crandall, they were the IMF consultants that

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wrote that document, and those were the consultants that were hired—when Minister Enill was in the Ministry of Finance—by this Government to consult on the formation of the Revenue Authority, and they provided the documents.

Those consultants were foreign consultants—*[Interruption]* You would see the value with foreign consultants, I understand. You look and you would see in the document it talks about the general features of revenue authorities; every single one of them:

- Argentina—role of the Ministry of Finance, ministry for economy and production, general supervision and legal control;
- Canada—they had a separate Minister responsible, but a Minister;
- Colombia—Minister of Finance and Public Credit;
- Ethiopia—Minister of Revenue;
- Guatemala—
- Italy—Minister of Finance response;
- Kenya—general supervision, Minister of Finance;
- Lesotho—general supervision;
- Mexico—oversight as Minister, direct control as chair of board;
- Peru—Minister appoints;
- Rwanda—general supervision;
- Singapore—general accountability;
- South Africa—Ministry of Finance, executive authority; and
- Spain—revenue authority attached to the Ministry of Economy and Finance.

So what we are doing here is what is done in every revenue authority. *[Interruption]* Because that must be the role!

A central role of the Government is the collection of revenue, and the point I want to make on that, this Revenue Authority Bill does not confer on the Minister any power that the Minister did not enjoy prior to this Bill, because this is the situation as we speak now. Because it is under the Constitution and it is under the Exchequer and Audit Act.

Mr. President, when we speak about this concern about the CEO coming under the general direction of the Minister—*[Interruption]* when I refer to the

legislation, section 85 of the Constitution says very clearly—[*Interruption*] I am going to have to ask Sen. Mark—

Sen. Mark: Sorry, sorry.

Mr. President: Senator, we have come all this way and we are at the better end—[*Laughter*]

Sen. Mark: Sorry, Sir. I apologize, Sir.

9.00 p.m.

Hon. K. Nunez-Tesheira: Thank you. The general direction is very similar to section 85 of the Constitution. Under section 85 of the Constitution, any Minister who has responsibility for a department, that Minister exercises general direction and control over that department, and similarly, the Permanent Secretary comes under the supervision and control of the Minister that is responsible for that particular Government department. So if you make an analogy with the CEO—Who is the CEO? The CEO of the Trinidad and Tobago Revenue Authority is going to be a merger of what currently obtains—[*Interruption*] I am not going to speak if you are going to have—I cannot.

Sen. Mark: I was speaking to—[*Interruption*]

Hon. K. Nunez-Tesheira: You would have to speak soft so that I cannot hear you. The Comptroller of Accounts and the Chairman of the Board of Inland Revenue, effectively, those two positions are going to be merged into the position of a CEO.

Now, with regard to both of those officers, whether it is the—and similarly with a Permanent Secretary. A Permanent Secretary is assigned responsibility and comes under the general supervision of the relevant Minister.

Sen. Assam: But you do not appoint him.

Hon. K. Nunez-Tesheira: And in the same way that the CEO will then come under the same general direction and control of the Minister, it is in the same way that a Permanent Secretary does so under the Constitution.

I am dealing with some points. The first point I dealt with is the issue of the concern of the CEO coming under the general direction of the Minister. I am saying, Minister means the Cabinet, and I am saying it is no different from what the Constitution now provides, and therefore, we are not operating any differently insofar as general directions. [*Interruption*]

Secondly, when you come to the appointment of the CEO—

Mr. President: Minister, excuse me a moment. Senators, this is a debate and not an argument. This is the Senate, and I am going to insist now that Senators listen in silence. I cannot hear the Minister and I am the one that has to listen, so please desist! Minister.

Hon. K. Nunez-Tesheira: So that deals with the issue of the general direction and control of the Minister. It is no different from what obtains under the Constitution of Trinidad and Tobago, under section 85. So we are not giving the Minister any more power than the Minister already enjoys, understanding that Minister means Cabinet.

When we talk about the appointment of the CEO which is effectively replacing the Comptroller of Customs and the Chairman of the Board of Inland Revenue, I remind this honourable House, Mr. President, through you, section 121 of the Constitution again, gives the Prime Minister the right to object and the right to veto over appointments of certain category of persons. Those persons do not only include the Permanent Secretary, it includes the Comptroller of Customs and the Chairman of the Board of Inland Revenue. It is how it should be. It is not anything to do with this Government. If you are a CEO or a chairman of a company, you must be able to have some say because you are the person directing the policy, and therefore, you must have some say over the persons who are acting and carrying out the policy of the Government. It is not only the Permanent Secretary. If you read section 121, it speaks to a wide category of persons and it is not only limited to the Permanent Secretary. It also includes the Chairman of the Board of Inland Revenue and the Comptroller of Customs. It is set out in section 121.

Insofar as the appointment of a CEO is concerned, whilst you may say that in a sense we have to choose from a pool that was already established by persons who have already been employed by the Public Service Commission, the point is, there is a level of discretion which the Constitution recognizes in the appointment of persons of those categories of positions, because you want to ensure that those persons are fit for carrying out Government's policy.

The other point we spoke to was the question of dismissal. The provisions of the legislation speak to the circumstances in which a CEO can be dismissed, and of course, when the Minister exercises such a power by virtue of a Cabinet's decision, and not a decision of the Minister herself. Quite apart from that, Mr. President, you know one would get the impression that we are living somewhere in the Wild West, that persons are without any recourse to the law. One of the things I think we know in Trinidad and Tobago, and you have to thank the PNM administration to a large extent for that, a respect for the rule of law, persons have

rights of redress. If a CEO believes that he has been wrongly dismissed, it is not that he cannot go to the courts of this land. He can take his matter to the courts of this land if he feels he has been wrongly dismissed.

In any event, I was informed by a Member—I have left the legal profession for some time, but I was reminded by one of the officers from the Attorney General's Department, that there is a recent case law I think, *M v Home Office*, a Court of Appeal decision which provides for personal liability of a Minister. So if a Minister has exercised his or her power whimsically or wrongfully, the offended person has the right of bringing an action personally against the Minister for wrongful dismissal. In fact, that point was made in that case called *M v Home Office*, 1994 Appeal cases.

Sen. Mark: So there are opportunities for persons who feel that the Minister, and I mean Cabinet, has overreached their authority and there are mechanisms, and I think that the court of this land—I know we still go to the Privy Council and we know the reason for that.

Hon. Senator: To protect the land.

Hon. K. Nunez-Tesheira: I heard the Senator, to protect—at one time when you were sitting on this side, your view was that the Criminal Court of Justice was such a good idea. That is why there is a building on Henry Street. There is a big building there. Is that not ironic? We have the Caribbean Court of Justice headquarters in Trinidad and Tobago; does anyone wonder why that has happened? Because when they were in power—you—when you were in power, you signed the headquarters agreement and thought that was the best thing—*[Crosstalk]* Not so at all. You see, you speak out of turn. We are not like you. In fact, I remember when we had discussion on that—I cannot remember all of it—our Prime Minister said that your Prime Minister approached him and asked him in Barbados I believe, if he would support the Caribbean Court of Justice. Because he is a decent man, a man who respects the rule of law, *[Desk thumping]* he gave his commitment, and that headquarters agreement was signed. Well, I will not digress. But the point about it is that the Caribbean Court of Justice unfortunately is not our final Court of Appeal.

So, I wanted to talk in very broad terms that this idea that this Minister suddenly has more powers; the Minister has the same powers the Minister now has under the current laws. The position in relation to customs and Inland Revenue is the same general direction and control of those two departments as established by the Constitution of this country.

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Mr. President, I want to speak to a matter—and many persons I listened—and actually it pained me, but I say let me—I did not interrupt because certainly speaking for myself, and I think the *Hansard* report will bear me out, not only in my introduction to the Bill in the Lower House, but in my contribution to the debate in the Lower House, I was at pains to point out that we recognized that the public servants are by and large decent, hard working individuals, who give up to a large extent and are not looking for security of tenure. There are some that look for security of tenure. But there are so many public servants, especially our Permanent Secretaries, senior public servants, who do this because of love of their country, because they could very easily leave the public sector and get excellent jobs, paying them 10 times more in the private sector.

I work with them every day. I work with Permanent Secretaries and heads of departments who have nothing but love for their country. So I want to put on this record, as the Minister, I have never said, and I do not want to be associated with a statement that I do not respect public servants. I was a public servant myself, once, and as Sen. Assam was at pains to tell the national community, I come from a family of public servants. So who am I to decry a public servant? I never did. What I said and what we maintain, like in every organization is not an issue with the public servant. In the private sector—I am sure Sen. Merhair can give you examples—you will always find persons for whatever reason, they are not a good fit. That is why people lose their jobs. That is why people are demoted. That is why people are disciplined. It is not the purview of the public sector. It happened because you are dealing with something called a human being, and it has nothing to do with public sector, or private sector, or public servant. That is not the issue, and I want to disabuse anyone's mind that I have said that.

In fact, I am confident that Dr. Henry in all his utterances has made the point that the vast majority of the public servants in Inland Revenue and Customs are worthy, hard working officers. In fact, President Duke—I heard with my own ears; I heard him saying that Dr. Henry said 80 per cent of the workers are going over to the Revenue Authority. Why would he say that?

Why would he say, President Duke said that 80 per cent—he was saying that Dr. Henry said, which is what Dr. Henry would had indicated—that the vast majority of those workers will find themselves in the Revenue Authority. He expects that because they have the skills, competencies and the qualifications to be in the Revenue Authority.

Sen. Mark: We do not trust you.

Hon. K. Nunez-Tesheira: That is what he has said. So I wanted to say that I want to distance myself from that statement about not having respect for workers. I suppose it must be politically correct in the period to say those things that alienate people. But I am saying this Government never called a teacher a criminal, and this Government respects public servants. [*Desk thumping*] However, what you must have been referring to was the Deane Committee findings. I quoted from the Deane Committee Findings. I was at pains and I am sure if I get the *Hansard* report it will bear me out. I was at pains to say, I was not making it up. I was reporting what was said in the Deane Committee findings. There was also another document, but I do not want to dwell on negative things. I just wanted to say, these were the findings, and the findings were several. What did they say?

- Inefficient human resource;
- Inadequate management capability;
- Inadequate staff development, training and accountability;
- Lack of control over and accountability for budgetary allocations;
- Inadequate employee compensation packages;
- High incidence of corruption and corrupt practices, especially within the Customs and Excise Division.

I did not say that. Those are the findings of the Deane Committee. Suddenly, you are saying the Minister said that they are corrupt. I did not say that. I am saying those are the findings of the Deane Committee. So when you want to say the Minister says that, or the Government says that, please be careful to say it is a finding of a committee that was set up. In fact, I have a report from the Auditor General that gave examples, but I do not want to dwell on the negative. What I want to say in that regard is this. So we hear all of this conversation as to why are you going to form a revenue authority. Why not do it in the public service? Do you know why? I will give you why.

I have a document right here, and I am sure you are familiar with the name. His name is Kenneth Lalla, and for those of you who may forget who he is, he was a Chairman of the Public Service Commission of Trinidad and Tobago, the Police Service Commission, the Defence Force Commission Board, a member of the Judicial and Legal Service Commission from June 29, 1989 to June 28, 2004, and a former Member of Parliament. So this is the source I am using. He wrote a book called, *The Public Service and Service Commissions*. Now the problems that

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the public service—I know Sen. Mark is familiar with this, because I understand that at one time you held that portfolio and clearly you must have seen the challenges of the public service reform. Since you are so brilliant and capable—to address those concerns and you have not been able to, because the public service reform is—[*Interruption*]

Sen. Mark: I thank you for recognizing my capabilities. [*Laughter*]

Hon. K. Nunez-Testeira: Yes. Correct. Mr. President, I recognized it when we were students doing our MBA, but I will not go into the details of that, lest I embarrass the Senator. But having said so—and the problems when you read literature on public sector reform, it is a problem all over the world. It is not peculiar to Trinidad and Tobago. This is not an issue that bedevils Trinidad and Tobago. It is a problem all over the world.

9.15 p.m.

You know that is true; so when you sit and blithely say, "Well fix it nuh," let us see how you are going to fix it, there have been several attempts at fixing it and that does not mean that there has not been significant progress. You well know, or I expect that you do know, that the Public Service Appeal Tribunal is a creature of the Constitution of this country. You well know that in order to make any changes in the Constitution, you need a two-thirds majority.

I will tell you the reality, because the national community needs to know: In the Lower House we have a three-fifths majority; if we did not have that, the Financial Institutions Act would not have been passed there. Do you know why? It would not have been passed because not one of the Opposition Members in the Lower House supported that legislation. The Proceeds of Crime (Amdt.) Act would not have been passed because in the Lower House we did not get the support of the Opposition Members. When we went to the Financial Intelligence Unit Bill, which would have made Trinidad and Tobago non-compliant and blacklisted us, you did not care, because it was the same Opposition Members who went to Standard & Poor's to downgrade this country.

Hon. Senators: Shame!

Hon. K. Nunez-Testeira: You see, Sen. Merhair, with all deference to you and Sen. Prof. Deosaran, the point is you are talking about public service reform; the public service is a creature of the Constitution. Section 121 sets out the fact that the Public Service Commission alone can hire and the Public Service Commission alone can fire. The Public Service Commission alone can remove

you from office. The Public Service Commission alone can discipline you, promote you and demote you. It is the Public Service Commission; that is the reality.

If you are talking about dealing with reform, you cannot have meaningful reform unless you can change the legislation, because it is the legislation that has created the creature. Therefore, if you cannot get the Opposition to support you on legislation that is good for the country, that you only require a three-fifths majority, let us be realistic now and take our heads out of the sand and tell me if they are going to support you with a two-thirds majority. They would find every single excuse not to support you.

I heard Sen. St. Rose Greaves stand here, even after having heard—I have now heard from Sen. Joefield that they have gone back against their word—but until we were so informed, we came to this House and said that there was agreement. In the face of that, perhaps, the Senator had a prepared speech and needed to go ahead with it, but even having said so, he continued to prosecute a case which we felt we had addressed fairly and had listened to what the union had to say.

Mr. President, do you know what Mr. Lalla had to say? Let us be realistic. I am quoting from his book called *The Public Service and Service Commissions*, page 257. Do you know what the heading is? "Discipline is a farce", that is the heading; it is a farce.

Sen. Dr. Rambachan: Why? Why?

Hon. K. Nunez-Tesheira: The book says:

"One of the major pitfalls of the management of the public service..."

He is not writing on Trinidad and Tobago only, he is writing on the Commonwealth, the Caribbean; so if you want to say it is a problem in Trinidad and Tobago alone, you are not being forthright with that, because you very well know that it is a problem throughout any of the Commonwealth countries.

"is the failure on the part of the Permanent Secretaries and Heads of Departments to maintain and enforce discipline at the work place. Discipline in the public service may, therefore, be said to be farcical. Statistics will show that a very high percentage of disciplinary matters referred to the Public Service Commission and the Police Service Commission has been dismissed for want of prosecution or evidence. Research shows that when Permanent Secretaries and Heads of Departments become aware of acts of indiscipline

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they seldom, if ever, take steps to secure the evidence in support of the allegations. Moreover, it is not clear whether the circumstances by which they become aware..."

I do not want to go on and on with it. It says:

"As a consequence, thousands of..."—I am not making it up; next thing you are going to say that I said that. I am so afraid to say it now; you all are going to ascribe this to me, but I am quoting:

"As a consequence, thousands of acts..."—you know thousands and thousands, Sen. Assam. [*Laughter*] "of indiscipline go unpunished."

Did you hear that? This is the reality; I am not making it up. The page is 257.

Sen. Mark: What is the relevance of that?

Hon. K. Nunez-Tesheira: It continues:

"...delays and inconsistencies in the promotion process..."—from page 172—"cannot be doubted. Indeed delays have been a perennial problem in making promotions since managers have persistently failed and/or neglected to comply with the...regulations..."

The point I am making is that whatever the reason, it is something in the system. [*Crosstalk*] Senator, I will give you more credit than that; you well know— [*Interruption*]

Sen. Assam: The Prime Minister is promoting the wrong permanent Secretaries.

Hon. K. Nunez-Tesheira: Sen. Assam, I am certain that if you spoke to the permanent secretaries and heads of departments, they could give you all the reasons it is a frustrating effort to even think of disciplining a public servant. We all know that. If you are being honest, you would know that one of the things they say about the public service is that people give up a salary for security of tenure. It is not Trinidad and Tobago alone; that is the nature of the creature you call the public service. That is what we have been trying to reform.

You tell me to reform it, and this has been going on since Gordon Draper's days and Sen. Mark's days; therefore, we are saying that for meaningful reform, Sen. Prof. Deosaran, you have got to change the legislation. In this country, based on my experience, as I have been in this House, you cannot get the Opposition to support you on any Bill that requires not even a simple majority; they will not support you. [*Crosstalk*]

I did my own research on my department, because I wanted to know what the experience in customs and Inland Revenue was. I wanted to find out myself and they prepared a document for me. I am not going to call names; I am just going to give examples. They gave me in Inland Revenue; they said to me that records of Inland Revenue indicate that positions became vacant from as far back as 1995 consequent on the promotion of officers. They gave me examples: Tax Officer V to III, since January 04, 2005; Field Auditors, since March 17, 2003. They talked about Assistant Commissioner Field Auditor, March 07, 2006.

Then when I went to the Customs and Excise, the story was no different. When you look at the Customs and Excise, they gave me examples. They said:

"Submission of recommendations for acting appointments prior to June 01, 2006, has not been processed."

I had discussions with both HR departments. [*Interruption*]

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

Motion made, That the hon. Minister's speaking time be extended by 15 minutes. [*Hon. C. Enill*]

Question put and agreed to.

Hon. K. Nunez-Tesheira: Given the short time I have left, I would say very quickly, it is right that not all revenue authorities work. They always say that it is not a goal in itself, it is a work in progress, but there are many examples of revenue authorities which have been successful. I have a list here. There is Peru, Uganda, there is some success even in those examples that were given. In fact, I have a table showing that there were significant advances in Peru, Kenya and so on. There are success stories of revenue authorities.

Why the Revenue Authority? Because that is what the board is; it is a board of management. You are not changing the customs laws; you are not changing the Inland Revenue laws. You are taking them outside the public service, outside the fetters of the public service, for all the reasons Kenneth Lalla in his book spoke to, the experience that you have had and the experience that we continue to have in two departments that are responsible for 90 per cent of the revenue of Trinidad and Tobago.

Could you imagine if you could improve the efficiency? It is said by a World Bank report that you could get as much as 5 per cent of GDP; that is \$7 billion that is going to be available to the people of Trinidad and Tobago to provide goods

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and services, if you can take it outside the fetters of the public service and put in place proper management systems to allow persons to be promoted on meritocracy and allow the Revenue Authority to make the decisions—
[*Interruption*]

Sen. Mark: We managed very well. [*Hon. Nunez-Tesheira sits*]

Hon. K. Nunez-Tesheira: Please, Senator—the right to hire, the right to make sure the persons you have are a good fit for the organization. Because I have limited time left, I just want to speak quickly. Sen. Drayton made a point about quarterly reporting. The Exchequer and Audit Act makes provision for reporting and the Revenue Authority is subject to that Act; it says so in the legislation.

In addition, Sen. Prof. Deosaran spoke about establishing a unit to treat with public complaints. The Internal Affairs Unit, which will be established under the Revenue Authority, will deal with complaints of impropriety by the staff of the unit. There will also be a customer care centre which will be established to deal with all complaints of poor delivery of service. So we are dealing with the customer, we are dealing with complaints.

I want to go quickly to successorship. Sen. Annisette, the argument of successorship cannot apply in the case of the PSA, because I am sure you already know that the PSA gets its right to represent the public officers by virtue of the Civil Service Act. It is a creature of statute. They have not gone out there under the Industrial Relations Act and got the 50 per cent plus one of the members of the proposed bargaining unit and then gone for certification. They get it by virtue of an Act of Parliament. Therefore, Senator, they get it because they are given the right, under the Civil Service Act, to represent public officers.

Once the Inland Revenue and Customs and Excise posts are abolished, which is the authority of the Government, any government so to do under the Civil Service Act, they will no longer be public officers as defined by section 3 of the Constitution of Trinidad and Tobago. Therefore, the right to represent those persons would no longer apply, because they would no longer qualify as public officers.

Having said so, Sen. Annisette, we have made the commitment—and I could say it again; we keep our word; we on this side keep our word; you can trust our word on this—and I am giving the undertaking, as I have done on several occasions, that we support good industrial relations practices. As you well know, Sen. Annisette, when those persons go over, we have already indicated that we would facilitate the union dues being deducted in order to facilitate the process. In

any event, even without a recognized majority union in the Revenue Authority, in the first instance, because it takes time—you have to be a member in good standing, you have to make your application and all the processes set out under the Industrial Relations Act—in the interim, there is section 51(1). Under this section, any worker in the Revenue Authority, once they become a member in good standing, by paying eight weeks consecutive dues, could take a rights dispute, join a union of their choice and take his dispute to the Industrial Court, under the Industrial Relations Act.

You well know, Sen. Annisette, as well as Sen. Mark, that under the Industrial Court, the remedies available to you are far more extensive than are available to the non-worker. Many persons, in fact, want to be workers when they get fired; suddenly they do not want to be managers; suddenly they do not want to have effective control of any department. They want to be a worker to take their dispute to the Industrial Court, because under the Industrial Relations Act, particularly section 10(4), they have powers of re-engagement, re-employment and they have the right to give you an award of damages beyond just compensation. The whole environment at the Industrial Court is far less formal and so on.

Senator, in the interim, whilst the union becomes the recognized majority union, the worker could join any union. That union could take their rights dispute to the Industrial Court.

The issue of putting it in the legislation—as you well know, it was done when a former UNC Senator, Sen. John—it was put in the legislation with the Regional Health Authorities that the NUGFW would be the union representing the daily paid workers. They put it in the legislation. When an attempt was made to do the same thing, MPATT, with the RHAS, with the monthly paid workers, the doctors formed themselves into an association and objected. They said that was against the universal declaration set out in the International Labour Organization (ILO), because of their right to freedom of association. They said, "I must have the right to choose who shall represent me." That is a basic fundamental right.

9.30 p.m.

What we are saying to the union is that we will facilitate and we give our undertaking any union that gets that support from the Revenue Authority workers can be assured of this Government's commitment to see the process through in the shortest possible time, and in fact, the agreement spoke to that.

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That is how we must do it. There is an Industrial Relations Act and the recognized majority union has a meaning. It means when you go into employment, the workers in the proposed bargaining unit say that we—50 per cent plus one which is the majority—want you to be our recognized majority, and that is a decision that we have made. That is how it should be, with all due respect, and that is all we are saying to the PSA.

Once they come over to the Revenue Authority, and that is the wish of the workers, we will give it the full support, you can be assured of that. I know the principle of successorship when a business is bought over by a new employer, carrying on the same business with essentially the same employees, the whole issue of course, with successorship is raised because there is the question of trying to bust a union. You know, you want to break a union so you close it down, and the next day you open it up and say it is a different business.

We are not doing that, this is the Civil Service Act; it is the law and we respect it, and we are asking you on the other side to respect the law. So we want to give our commitment, Sen. Annette, that that is the reason we cannot support it in the way it is put forward. However, I think that, as I indicated, the agreement which was initialed, I believe the union recognized those constraints by the law and we hope they will understand the position we have taken and can be assured of our support.

So in conclusion, Mr. President, I just want to say no system is perfect if we could do it through the Public Service Regulations and structure, we certainly would do it. And if we could be assured of getting the two-thirds support from the other side, we certainly would do it. But history has shown us that is a pipe dream and you know it is said that the definition of madness is doing the same thing over and over again and expecting a different result.

We are saying that it would be sheer folly on our part to expect that we would be able to bring that kind of far-reaching change in the public sector by way of legislation given our experience. All due respect to those on the other side and, therefore, we are doing like the other 50 countries around the world—they cannot all have gotten it wrong—no system is perfect. If they were so imperfect, why have they not closed their revenue authority and reverted? They have not. So there must be something good about it and we are saying to the persons who will be employed in the Revenue Authority who are going to get the opportunity to be

part of a good performance management system—you cannot manage what you do not measure—a learning experience. All the things that we want for our employees. The gym; somebody asked, that will be there. There is going to be a gym—actually, we spoke about that today—with all the best facilities for our public servants.

And we want to assure the people of Trinidad and Tobago as our last debate for this session; we want to give them the commitment that this Government continues to deliver because we continue to care.

I beg to move.

Mr. President: The Minister has asked that the matter be moved, so I put the question for the second reading of the Bill, it will not be read a third time. So I will put the question for the second reading.

Question put and agreed to.

Bill accordingly read a second time.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, I beg to move that this House do now adjourn to a date to be fixed.

Vote of Thanks

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): May I, Mr. President, express my appreciation to all Senators for their contributions to the work we have been able to do since the term began. I know that there are many with aspirations and I wish them well. However, it is my view that at the end of it all, we would be able to continue the work that we have started, which is really intended to improve the quality of life of all our citizens.

So, Mr. President, I wish to congratulate the staff of the Parliament, all my colleagues and you, Sir, and to wish you well.

Sen. Dr. Surujrattan Rambachan: Mr. President, I would like also on behalf of my fellow Senators of the United National Congress to thank you for your patience and the professionalism with which you have conducted the affairs of the Senate during the couple of weeks that I have been here.

I also want to take this opportunity to thank the staff of the Senate, as well as the police officers for their protection, and even those who look after our vehicles

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on the road late into the night, those who brought our documents to us very promptly, and as I said today, everyone who gave us great customer service.

I also want to wish my colleagues on the other side all the best, though I know we are going to be on the other side when we get back here and we will be able to engage in the process that will prevent this kind of conflict attitude that exists in the Senate and in that way, engaging in proper process with the public, we will be able to do the work of the Senate in a way that satisfies the people of this country.

Thank you, Mr. President.

Sen. Prof. Ramesh Deosaran: Mr. President, as you know, it has been widely said that this is a land of gossip and rumour, and when I first heard what I considered a rumour about the imminent election, I really thought it was essentially a rumour and not the premature ejection—note the word ejection—that has been announced today with regard to the dissolution of this House.

It is therefore a very auspicious occasion for those of us who have been here for the last two years or so, for me on behalf of the Independent Bench, these eight distinguished people who have contributed in my view, not only immensely in terms of the quantity of contributions, but the very well-researched positions, and again in my view, positions which have helped the democratic process, the parliamentary debate even when it seemed to be unpopular in some quarters. But that is the fate of principled position sometimes, and I think the Independent Bench, if I may say so on this auspicious occasion, has not received the recognition it really deserves in terms of support staff, research assistants, but quite dutifully and patiently, they have come to serve the country as all of us have come to do. I wish to take the opportunity to express to the Opposition as well, as an integral part of this Senate, that I have witnessed their struggles in the face of severe odds, not only in terms of resources, but the whole Constitution is a bit, in my view, too disadvantageous to the Opposition and I believe that should be a matter for constitutional reform.

More importantly in terms of governing and according to what the Leader of the Government side has just said, it has been quite interesting to see the Government side struggling to do what they think is right to be done for the country, but I can detect quite often their struggle in terms of process that is required, the need for consensus in a democracy and consultations in terms of achieving what their objectives are. That kind of restraint on the Executive is part of democracy.

Mr. President, democracy is a lazy system. It requires process sometimes much more than product and I think that is what all people who are in

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Government must understand in my view; they ought to be patient in legislation, not because people are likely to disagree with you, but the requirement and imperative for consultation and consensus, which are very integral parts to democratic process. If you want to fast-track issues and have things done quite speedily, then you might fall to the temptation of dictatorship. That is a choice we have to make, and the sacrifice we have to make in order to live and maintain our democratic institution.

I therefore want to impress on the Government on behalf of the Independent Bench our satisfaction and in fact, our commendation for the attempts you have been making even up to this very last minute to serve the country in the way you think is best.

To the staff of the Parliament, the police officers the clerical and administrative and the security staff, again, on behalf of the Independent Bench we want to express our appreciation for your support services.

To you, Sir, and I deliberately leave you for last, but of course, not least, you have indeed set a high standard of discourse—[*Desk thumping*] decorum and you have sometimes with additional effort reminded us of the protocol required in a democratic parliamentary system.

I learnt quite a lot, like I believe many of us and I am taking this extra minute because this is a very auspicious occasion. As I say, it is a moment of some finality for many of us, but I have learnt quite a lot in this House, Sir. I have admired the way you have conducted our business and one of the satisfied moments that I would leave, is to have contributed to the decision to have live broadcast of our parliamentary proceedings throughout the country. [*Desk thumping*] There are other things I can afford to leave with satisfaction. I too believe, as many of us, I am happy to know that I have tried to serve my country in the best way I can.

Thank you, Sir, for your service and thank you ladies and gentlemen, my colleagues, for giving me the friendship and to experience a large measure of what a gentleman is like, what is decorum in the highest court of this land looks like. Thank you all very much for the experience on behalf of my distinguished Independent Senators.

Mr. President: Hon. Senators, if it is to be that this is the last time that I address you as such, I say it with a sad heart. It has been a pleasure to serve you and a privilege to act as the President of the Senate for the last two and a half years. I have of course served in the Senate on both sides of this Chamber and I have spent a total of some 14 years in this Chamber. [*Desk thumping*]

Vote of Thanks
[MR. PRESIDENT]

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I am not saying goodbye—[*Laughter*] I am not leaving, but I do wish all of you the very best and I want to thank each and every one of you for the support you have given me and the spirit of the Senate over the last two and a half years. I am proud of every one of you and you should be proud of yourselves. I think that all of you have served with distinction, credit, honour and dignity, all of you, without exception, Sen. Mark. So I thank you very much for that. [*Laughter*]

9.45 p.m.

I can thank the Members of the Government Bench for doing their job and doing what they felt was best to serve the people; I can thank the Members of the Opposition Bench for doing the same thing, for meeting them head-to-head, toe-to-toe and that is as it must and should be.

On behalf of His Excellency the President and myself, of course, I want to thank the Independent Senators who come and attend here without an agenda and contribute the best that their minds can give to the Senate, to the people and to the governance of the country. You give up a tremendous amount of time; it is a great effort, and speaking again for His Excellency and for myself, I would like to thank you very much for your effort.

I would not like to overlook the temporary Senators on all Benches who have come in from time to time and who do make a tremendous effort to try to fit in, sometimes at very short notice, to understand what the issues are and to make a contribution. They all do so to their credit and, therefore, I thank them.

I would also like to wish all of you well in the future and wish you every success in whatever you do with your families and your lives, each and every one of you. I do not know if any of you or how many of you will be returning to the Senate. If there was one person I thought was going to come back, I thought it would be Sen. Mark, but he assures me that he has other plans; that he will be fighting in a different arena and that he may not be here. Well, Senator, I wish you the very best—

Sen. Dr. Saith: In Ramesh party. [*Laughter*]

Mr. President: I wish you the very best of luck. The Senate certainly will not be the same without Sen. Mark in it. Whatever it is, I certainly wish all of you God speed, good luck and best wishes and I hope that I would see you again around town, as they say.

Last and not least, I certainly would like to thank the staff of the Parliament, the Secretariat, especially *Hansard* who come here and have to listen to us day

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after day, hour after hour, late into the nights and they go home to their families and work very hard and do, of course, a fabulous job.

I would like to thank all of the staff, from the messengers to the payroll department. They all do their part and are part of the machinery of governance; part of the machinery of Government. I would like to thank them. Of course, I have to make my visit through before I leave the halls of the Red House, but still I want it on the *Hansard* record that I would like to express my deep appreciation to all the members of staff of the Parliament.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 9.48 p.m.