THE

PARLIAMENTARY DEBATES

OFFICIAL REPORT

IN THE FOURTH SESSION OF THE EIGHTH PARLIAMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO WHICH OPENED ON OCTOBER 17, 2002

SESSION 2005—2006 **VOLUME 17**

HOUSE OF REPRESENTATIVES

Wednesday, March 15, 2006

The House met at 1.30 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I have received communication from the following Members requesting leave of absence from today's sitting of the House: Mr. Ganga Singh, Member of Parliament for Caroni East and Hon. Diane Seukeran, Member of Parliament for San Fernando West. The leave which these hon. Members seek is granted.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Housing Authority for the year ended December 31, 1994. [*The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley)*]

2. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Housing Authority for the year ended December 31, 1995. [*Hon. K. Valley*]

3. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Housing Authority for the year ended December 31, 1996. [*Hon. K. Valley*]

Papers 1 to 3 to be referred to the Public Accounts Committee.

4. Annual audited financial statements of Business Development Company Limited for the year ending September 30, 2005. [*Hon. K. Valley*]

To be referred to the Public Accounts (Enterprises) Committee.

5. Annual report of the Police Service Commission for the year 2004. [*Hon. K. Valley*]

6. Twenty-eight annual report of the Ombudsman for the period January 01, 2005 to December 31, 2005. [*Hon. K. Valley*]

ORAL ANSWER TO QUESTION

Debe Health Centre (Construction of)

6. Dr. Roodal Moonilal (*Oropouche*) asked the hon. Minister of Health:

(a) Could the Minister indicate when construction of the new Debe Health Centre will commence and when the project is scheduled to be completed?

(b) Could the Minister also indicate the estimated cost and selected location for the new Debe Health Centre?

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, may I request that that question be stood down for a few minutes? I know the Minister is going to be here shortly.

Mr. Speaker: Would the question be answered?

Hon. K. Valley: The question would be answered, Mr. Speaker.

Mr. Speaker: Hon. Members, the Minister has just arrived so perhaps we can take the question.

The Minister of Health (Hon. John Rahael): Mr. Speaker, I do have the answer but, unfortunately, in my rush, I did not bring it with me. Maybe, if it is possible, I could respond to the question later in the proceedings.

Mr. Speaker: How soon would you have the answer?

Hon. J. Rahael: Within the hour, Mr. Speaker.

Mr. Speaker: Okay, we will stand down this question for the time being.

DEFINITE URGENT MATTER (LEAVE)

Government's Lack of Response to Gastro-Enteritis Epidemic

Dr. Adesh Nanan (*Tabaquite*): Mr. Speaker, in accordance with Standing Order 12(1), I hereby seek your leave to raise the following as a definite matter of urgent public importance: the lack of a proper health response by the Government to the gastro-enteritis epidemic.

The matter is definite because of the death of an infant, one year and two months old, at the San Fernando General Hospital on Wednesday, March 08, 2006.

The matter is urgent because there are thousands of children under the age of five who are particularly susceptible due to an underdeveloped immune system.

The matter is of public importance because there are thousands of children across the nation who are facing the grim prospect of death.

Mr. Speaker: Hon. Members, the leave which the Member seeks is denied. This matter would have been ideally suited to come under Standing Order No. 11.

CONSTITUTION (AMDT.) BILL

Bill to amend the Constitution to reform the Police Service Commission, confer powers on the Commissioner of Police to control and manage the Police Service, and for other related matters [*The Prime Minister*]; read the first time.

Motion made, That the next stage of this Bill be taken later in the proceedings. [*Hon. P. Manning*]

Question put and agreed to.

POLICE SERVICE BILL

Bill to consolidate, amend and revise the law relating to the Police Service, to ensure efficient and transparent management of the Service and to provide that the principles of equity and meritocracy shall be applied at all times and for other related matters [*The Prime Minister*]; read the first time.

Motion made, That the next stage of this Bill be taken later in the proceedings. [*Hon. P. Manning*]

Question put and agreed to.

POLICE COMPLAINTS AUTHORITY BILL

Bill to establish an independent body to investigate criminal offences involving police officers, police corruption and serious police misconduct and for other related matters [*The Prime Minister*]; read the first time.

Motion made, That the next stage of this Bill be taken later in the proceedings. [*Hon. P. Manning*]

Question put and agreed to.

CONSTITUTION (AMDT.) BILL

The Prime Minister and Minister of Finance (**Hon. Patrick Manning**)**:** Mr. Speaker, I beg to move,

> That a Bill to amend the Constitution to reform the Police Service Commission, confer powers on the Commissioner of Police to control and manage the Police Service, and for other related matters be now read a second time.

Mr. Speaker, under the Standing Orders of this House, we can only move one Bill at a time, and the Parliament can only vote on one Bill at a time. By agreement, however, with hon. Members opposite, we would like to seek your leave on this occasion, that as I make a presentation on the Constitution (Amdt.) Bill 2006, I also speak to the other two Bills, that is to say, the Police Service Bill, 2006 and the Police Complaints Authority Bill, 2006, all of which form a comprehensive package of legislation that is designed to improve the performance of the police service and to ensure higher levels of security for the citizens of Trinidad and Tobago.

Question put and agreed to.

Hon. P. Manning: Mr. Speaker, the package of legislation that is today before this honourable House has had a very long history. I would like to first draw the attention of hon. Members, through you, Mr. Speaker, to the fact that this package has been the subject of deliberations in this House in the year 2004, on which occasion we had brought to a head a process that began in 1999, which resulted then in legislation coming to the Parliament, but which at that time did not have prior agreement of hon. Members opposite, and which in the final analysis did not find favour with the Members of this House, especially, as these Bills require a special majority.

In other words, Mr. Speaker, there is no need, on this occasion, for us to go into any great detail about what these Bills contain, since these Bills have already been the subject of deliberations here, and that the parliamentary record has already been the beneficiary of extensive discourse by Members on this side, and also by hon. Members opposite.

In presenting these Bills this afternoon, therefore, it is not my intention to go into all that has been said before, but to, in the first instance, draw the attention of hon. Members to the process by which these Bills are now before us. Subsequent to the last occasion when these matters were subject of deliberations here, the Government and hon. Members opposite have met on several occasions and, very recently, following an agreement that was reached last year, an umbrella agreement

for a package of legislation to be brought before this Parliament for consideration after deliberations by both sides. I am pleased to advise this honourable House today that the Bills that are being debated have been the subjects of agreement with hon. Members opposite. Therefore, we anticipate no difficulty in having the legislation passed, but the legislation would have come a very long way.

I wish to remind hon. Members that it was August of 1999, on that fateful Sunday morning when the newspapers, I think the *Guardian* reported the escape of one Deochand Ramdhanie from police custody out of the Princes Town Police Station assisted, as we subsequently found out, by members of the police service, that the general council of the PNM authorized the then Leader of the Opposition to meet with the then Prime Minister to discuss mechanisms to seek to bring this question of crime under control and to assure the hon. Prime Minister at the time, the hon. Member for Couva North, that to the extent that any special majority would be required in the Parliament to have the legislation passed, the Government was assured of the support of the Members of the Opposition under the instructions of the general council of the People's National Movement. This was done, Mr. Speaker.

The record already contains the fact that following the meetings that took place, we agreed to set up a team comprising, at that time, the hon. Member for Couva North as Prime Minister and Chairman of the team, and involving the Attorney General of the day, the hon. Ramesh Lawrence Maharaj and the Minister of National Security, Brig. Joseph Theodore, together with the Member of Parliament for San Fernando East and the Leader of the Opposition, and the hon. Member for Arouca South, Mrs. Camille Robinson-Regis. The five of us, under the chairmanship of the Prime Minister, meeting as a group, agreed that we should set up a technical team to do the detailed work that would be required to be able to present something for the political grouping to use as a basis of deliberations, as we sought to come to some kind of arrangement that could provide a proper legislative framework in which the question of crime could have been seriously tackled and addressed.

I would like, on this occasion, to pay tribute once again to Sir Ellis Clarke, the first President of the Republic of Trinidad and Tobago and a very able team of technocrats who were sourced from inside and outside the region: Grenada, Jamaica and the United Kingdom; a group of technocrats who, it turns out, worked assiduously on this matter and were able to, not only engage in consultations with various interest groups as they developed the proposals, but at

every turn to seek directions from the political directorate involving, as it did, Members of the Government and the Opposition. At the end of the day, they were able to present to us a set of documents that was the subject of consultation, which, eventually, after some further discussions, presented itself as a consensus at that time.

Mr. Speaker, without going into all the details of it, suffice it to say also that the legislation was the subject of public discussions at various stages and, eventually, not only did it come to Parliament and was put up for public comment, but it was the subject of deliberations by a Joint Select Committee of Members of both Houses of Parliament. Eventually, it came back to Parliament and was discussed at length but it did not receive the approbation and the requisite majority that would have been required to enact the legislation into law.

I have taken the time to go through that procedure again, Mr. Speaker, because it demonstrated then, and it demonstrates now, the commitment of hon. Members opposite and hon. Members on this side to the process of consultation on critical issues which is an essential element of the system of democracy as it is practised here in Trinidad and Tobago.

As you know, Mr. Speaker, in the year 2001 the Government changed and some difficulties arose. I am very pleased to report this afternoon, that following further deliberations last week Wednesday, the Government and the Opposition came to an agreement again on modifications to the legislation that now find their way before this honourable House. Mr. Speaker, permit me to outline briefly what the differences are.

First of all, there is no longer a police management authority and there is retained the Police Service Commission. The Police Management Authority or the functions that were contemplated to be discharged by a police management authority have now been given to the Commissioner of Police for discharge in the day-to-day conduct of the affairs of the police service putting back in the hands of the Commissioner, the responsibility for running the police service. Mr. Speaker, that is change number one.

Change number two is that the Police Service Commission now is a body that will make certain appointments and will also act as an appeals body in relation to the disciplinary procedures that have been established in the law; disciplinary procedures, which, as you would recall, have been decentralized and put in the hands of the Commissioner of Police, so that internal to the police service is a system of discipline that will now short-circuit the time that is required to bring to

a successful conclusion matters of a disciplinary nature as they affect the police service; the Police Service Commission now being an appeals body in relation to these disciplinary procedures.

Thirdly, the method of appointment of the Police Service Commission. Hitherto, the method has been that the President, after consultation with the Prime Minister and the Leader of the Opposition, will make appointments to the Police Service Commission. Hon. Members opposite, as indeed hon. Members on this side, have had difficulty, and it has been a traditional area of contention with successive governments, the whole question of consultation, what it means, and how is this process of consultation best to be carried out. We sought to find a formula that is more acceptable to hon. Members opposite and to the Members of the Government, in the first instance, that we feel is a formula to which we can properly subscribe and preserve the integrity of the systems as those systems now exist and operate.

With respect to the consultation process, what we have now agreed to is that the President, after consultation with the Prime Minister and the Leader of the Opposition, will forward to the Parliament, the Lower House, the House of Representatives, for its consideration, a list of nominees which would be the subject of deliberations in this honourable House on the basis of affirmative resolution of Parliament. In other words, it triggers a debate. The mere fact that a debate is triggered, and the mere fact that in such a debate both hon. Members on the Government side and hon. Members opposite will be in a position to air, as extensively as the Standing Orders allow, any shortcomings in the process, Mr. Speaker, that fact alone we believe, is a fact that will cause the President to ensure that in the conduct of that particular exercise a process of consultation is entered into that is acceptable to the Government and hon. Members opposite; that is the positive side of it.

Mr. Speaker, I would be less than honest if I did not draw to the attention of hon. Members the fact that this is a process with which Members on this side do not agree. We do not agree with the process, however, in the spirit of compromise and discussion that took place between the Government and Opposition, we thought it prudent to agree to that formula that now forms part of legislation before this House and to give it a chance to work.

One of the disadvantages of that approach is that we could never guarantee the level of responsibility to which any Member of this House would subscribe, and to the extent that the Parliament would be deliberating on individuals who will be

the subject of consideration for appointment to a service commission, to that extent hon. Members can abuse the privileges of Parliament by commenting adversely on individuals who may not be here in the Parliament to respond, protect and defend themselves; it suffers from that. It also suffers from the disability that persons who under normal circumstances will make themselves available to His Excellency The President for consideration for service on a service commission, knowing that the process now involves deliberation on names before the House of Representatives, may very well take the view that in those circumstances they are not prepared to come forward since they are not prepared to expose themselves to the possibility of the abuse that is possible in the Parliament as it deliberates on this matter. Notwithstanding those two drawbacks, we thought that we would agree to the approach and see how it works in actual practice.

We had sought to have it done by way of negative resolution, that is to say, a debate was not automatically triggered by the laying of the names in Parliament but that if any Member of the Parliament wished, a resolution could have been brought before the House which could then trigger the debate. In other words, it would have been possible to have the thing approved without a debate but, again, we were unable to convince hon. Members opposite of the wisdom of such approach and eventually we decided to go along.

We wish to make it clear, Mr. Speaker, that this approach does not represent for us an ideal, rather it is a compromised approach to which we have agreed to subscribe and we will see over time, with the effluxion of time, how well the system works, or how well it does not work. If it turns out that the system is not meeting the aspirations of hon. Members of this House, then we believe we possess the maturity, again, to sit around a table, hon. Members of Government and hon. Members opposite, and continue our search for an approach that more closely meets the requirements of Parliament within the context of the society in which this Parliament operates.

Secondly, the way the Commissioner of Police is appointed; that is another change that is of significance. Hitherto, the Police Service Commission made an appointment of a commissioner of police but the Prime Minister had a veto on it. In other words, the Prime Minister could not propose a commissioner of police, but if after the Police Service Commission goes through the appropriate procedures as established by law, the Prime Minister is then consulted and the Prime Minister has a veto, he can say, yea or nay. If he says no objection, it goes

through but if he objects then, of course, they would have to do something else. This is not a process that involves only the appointment of the Commissioner of Police, every department head in the public service is subject to that prime ministerial veto and there is much to be said for it.

What the legislation now before the House proposes, is that the prime ministerial veto disappears but that the name, as identified by the Police Service Commission, will itself come before the Parliament and also will be the subject of affirmative resolution. The difference between this one and the appointment of the members of the commission is that the police officer who is going to be the commissioner of police will be, in fact, a public servant and has no way of defending himself. In fact, whereas individuals can say, I do not wish to serve on the police service commission and, therefore, I do not want to subscribe to that, a police officer who has served in the service and has legitimate aspirations to be commissioner of police really does not have available to him the option of saying, well, I am not going to subscribe to that process and submit myself to that level of scrutiny which could be abused. If he takes that position what, in fact, he does, he passes up the opportunity to serve the police service at the highest level. That option really is not one available to him and, therefore, this process too suffers from a disability. Again, however, Mr. Speaker, we have decided in all the circumstances to go along with this process as identified in our discussions and we are prepared to give it a chance to work to see how in practice it will operate.

In addition to that, the legislation now identifies criteria that will be brought to bear on the selection of appropriate candidates for the office of Commissioner of Police, and also the legislation talks about a process by which this is to be done. In this case, it talks about a new process that we have introduced in the public service by which we have been able to select, and, quite adequately, the latest round of permanent secretaries and deputy permanent secretaries, it is a process that moves away from the appointment on the basis of seniority and takes into account other factors like managerial skills and so on, a process that has turned to the extent it was applied to the permanent secretaries and deputy permanent secretaries, that threw up the right candidates as far as the Government has been able to ascertain. Therefore, we chose to apply such a process also to the police service and we look forward with great anticipation to see what that process would turn up in the current situation.

Mr. Speaker, it is most important that this legislation should come to the Parliament at this time because in the executive of the police service there are a lot of vacancies and a number of office holders in that executive at this time who

are due to retire from the police service within the next two years. Therefore, we are getting into a period where a number of appointments will have to be made.

The Police Complaints Authority Bill also will now require a special majority for approval because it now includes a unit to investigate police officers. In other words, the investigation of police officers who are accused of committing transgression that require investigation will not in the future be carried out by the police service itself, giving rise to themselves investigating themselves. A unit is set up in the Police Complaints Authority for that purpose and we believe this is a far superior approach to the approach that currently subsists. Such a unit will have the flexibility of including persons of competence to do that job wherever such may occur.

Apart from that, the Police Complaints Authority Bill has been the subject of tidying arrangements on the basis of deliberations, representations made by hon. Members opposite and also representations made by the Police Complaints Authority itself, the experience that it has gained operating the legislation as it stood then, as it now stands and making proposals to the Government to update the legislation to make that legislation much more appropriate to the task that is assigned to the Police Complaints Authority.

2.00 p.m.

Mr. Speaker, all in all, the legislation that would be before the House this afternoon—the Constitution (Amdt.) Bill, 2006, the Police Service Bill, 2006 and the Police Complaints Authority Bill, 2006—represents what we believe to be an advance on what came before, even though the legislation suffers in two important areas from two significant disabilities; disabilities with which we are prepared, for the time being, to live with and we are prepared to give the legislation a chance to see how it works. If it does not work, then we will do something else.

Mr. Speaker, I would like to say to hon. Members opposite—and I speak on behalf of my colleagues, the Minister of National Security, Sen. The Hon. Martin Joseph, the Attorney General, Sen. the Hon. John Jeremie and Mrs. Camille Robinson-Regis, the hon. Minister of Planning and Development and Member for Arouca South—that we consider it a pleasure working with our colleagues opposite—the hon. Member for Couva North, the hon. Member for St. Augustine, the hon. Member for Caroni East and the hon. Member for Siparia—in the way we worked on this important legislation. The fact that we were able to sit around the same table to deliberate and come to a conclusion that is acceptable to all sides is indeed an indication of the maturity of the political process in which we

are engaged and the maturity of the politicians who, for the time being, have the responsibility to conduct the business of Trinidad and Tobago.

I beg to move.

Question proposed.

Mr. Basdeo Panday (*Couva North*): Mr. Speaker, in coming to an agreement on these Bills before the House, we have had great difficulty in arriving at the methods or selecting both the members of the Police Service Commission and the Police Commissioner himself.

When we first met with the Government to tackle the problem of kidnapping by making kidnap for ransom an unbailable offence, we faced many problems. We demanded, however, that in order to resolve these problems we should stick to three basic principles to see whether the laws we proposed to this Parliament satisfied those conditions. The three basic criteria we proposed to the Government, to which I believe they agreed, were that laws must not lead to an abuse of power. They must not lead to the introduction of violence into the political system and they should in no way facilitate discrimination of any kind, but rather they should promote meritocracy. This is what we tried to do with these Bills before this honourable House.

There were several matters that disturbed us and one was the appointment of members of the Police Service Commission. Now in theory—and we have taken the language of the British Parliament—bodies such as the Police Service Commission are supposed to be or expected to be independent bodies. It has always been my contention that that is not possible in a society as small as ours and it has nothing to do with the personal malevolence or the character of anybody. It is just a fact of life that in societies such as ours it is extremely difficult to find a group of persons with the kind of independence that is required by the Police Service Commission.

The reason quite simply is that the President is effectively a nominee of the ruling party and his appointments—if you look at the historical data you will see—come from a certain clique with its own interests to serve and whose bias is almost congenital. I mean they cannot help it. We therefore suggested to the Government that, in order to deal with this problem in the society, five members of the Police Service Commission be appointed by the President on the advice of the Prime Minister and that two be appointed by the President on the advice of the Leader of the Opposition.

The object was, not necessarily to create a so-called independent body, because there is no such thing, but to create a body that would be able to monitor itself. That was the idea of having the formula we put forward. The Government did not agree with us; they rejected that formula. I want to say that we are behind time with countries like Dominica. It also obtains for the rest of the Caribbean.

Mr. Manning: That does not make it right.

Mr. B. Panday: Of course it does not make it right. The fact that we have a lot of crime does not make it right either, but the point is that it is not an answer to say that it makes it right or wrong. We are trying to deal with the particular problems of Trinidad and Tobago and we are coming up with ideas. This is what made these negotiations successful—the Opposition was able to come up constantly with new ideas.

Another thing that bothered us a lot was that the power of the Prime Minister to veto the appointment of the Commissioner of Police effectively allowed him to determine who the Commissioner of Police would be—not directly, but surely, indirectly. So we resolved the issue by the provisions we have put into the new Bills.

Clause 123, as you know, has been repealed. Clause 123 is the one that gave the Prime Minister the power of veto. So that no longer exists.

I have read certain criticisms on the removal of the veto, coming from wannabe politicians, that the Prime Minister still has the power of veto which he can exercise by his majority in Parliament. Firstly, to insist otherwise than a simple majority—that there be a special majority—would in effect be transferring that veto to the Opposition. The Opposition would now be able to veto the Commissioner of Police. I am talking about the positive resolution as opposed to the special majority. We decided against that because the Government has the responsibility to deal with crime and, therefore, it cannot put the responsibility to appoint the commissioner on the Opposition. They must be responsible at every turn. We thought that was a good suggestion; that insisting on a special majority was not the right thing to do.

What the critics missed is the fact that the appointments are subject to debate in Parliament. This would give all the Members of Parliament the right to comment on the appointments, in addition to the fact that the President makes his first list of nominees, if I may put it that way, after consultation with the Prime Minister and the Leader of the Opposition. That fact itself gives more credence to the process of consultation because the President now knows that whatever

appointment he makes that he is being consulted by the Prime Minister and the Leader of the Opposition. That itself will be the subject of debate when the Parliament comes. It opens up the system. The fact that the Parliament may approve the appointment or disapprove it with its majority is not relevant in these circumstances.

In such circumstances where the matter is subject to debate in Parliament, the chances of having the wrong persons as members of the Police Service Commission or as the Commissioner of Police or Deputy Commissioner of Police will surely be minimized. It is on that basis that we are in agreement to support this Bill as it is.

I want to make it absolutely clear, as I did on the last occasion when we talked about the Kidnapping Bill, which made kidnapping for ransom an unbailable offence, that these laws will not deal with crime. In fact, we now have the non-bailable law with respect to kidnapping for ransom, but kidnapping has continued unabated. Crime has continued unabated. I believe that there are 75 murders in 75 days. We have 20 per cent more than we had in a similar period last year, so the law itself is not dealing with crime and will never deal with crime. What is important is management. You have to manage the system.

If these Bills that we are passing here will assist in management in any way, to that extent it may have an influence on crime; but merely to pass this law and to have the President approve of it, is not going to help at all. These are my general comments on the Bill, but there are certain specifics and I go to the Bill for them.

In clause 4(a) on page 5:

> "(3) The President may, after consultation with the Prime Minister and Leader of the Opposition, nominate persons, who are qualified and experienced in the disciplines of the law, finance, sociology or management, to be appointed to the Police Service Commission.
>
> (4) The President may issue a Notification…"

The point I wish to draw to the attention of the Government is that, according to my recollection of the laws of interpretation of statutes and deeds, "may" is discretionary and "shall" is mandatory. Do we want to make the power that we are giving to the President discretionary? I would think not. We want to make it mandatory. I ask the Attorney General or whoever is in charge of the Bill to look at that and to change "may" to "shall".

The second point I wish to make is that the drafting of clause 4(a) on that same page is rather cumbersome. It says that:

> "(4) The President may issue a Notification…"

I wonder why we did not use the words we are accustomed to, that is, the parliamentary words "issue a notice". By introducing "notification", you will see that it creates complications.

> "(4) The President may issue a Notification containing the names of the persons nominated under subsection (3) which shall be subject to affirmative resolution of the House of Representatives."

That drafting is cumbersome. What is subject to affirmative resolution? The notification? There is no other interpretation here than that. [*Interruption*] I am pointing them out lest you say that, at the committee stage, I have taken you by surprise. You know I believe that politics has its own morality. [*Laughter*] So although I would like to ambush you at committee stage, I would not.

The point is that you cannot vote against the notification. What you really want to do is to approve the nominees of the President individually. Suppose you agree to (3) and you do not agree to (2), how will you operate this clause so as to do that? [*Interruption*] Why be so cumbersome? Why go through all that. There is a problem here and it is the problem of drafting. I think I have a draft somewhere. I have not forgotten my drafting skills. Notice: "The President shall issue a notice to the House of Representatives indicating the names of the persons he intends to appoint to the Police Service Commission and such names shall be approved by the House of Representatives by affirmative resolution." That would capture it.

Mr. Valley: Agreed.

Mr. B. Panday: Mr. Speaker, he is spoiling my whole debate by agreeing with everything.

The same thing would happen to new subsection (5):

> "The President may make appointments under this section only after the House of Representatives has approved the Notification."

They go back to notification, which is complicating matters here. It really should be: "House of Representatives has approved the nominees referred to in the said notice." I think that will deal with the problem we face there.

Subsection (6), in my humble and respectful view—if I am wrong I stand corrected—is in conflict with the old subsection (3), which is now being renumbered subsection (7). Hear what it says:

> "The President may in his own discretion appoint a Chairman to the Police Service Commission from among its members."

That I respectfully submit is in conflict with the old subsection (3). In the present Constitution, section 122(3) reads:

> "The Chairman of the Police Service Commission shall be either the Chairman or the Deputy Chairman of the Public Service Commission."

That cannot be right. You cannot have that and have this at the same time. Am I making myself clear? This says that the President may, in his own discretion, appoint a chairman of the Police Service Commission from among its members. I humbly submit that that is in conflict with the present Constitution, section 122(3).

Now, by renumbering subsections (3) and (4) as (7) and (8)—(3) refers to the appointment of the chairman, so that is an error that has to be rectified, and (4) refers to an appointment for five years—if you renumber (3), you are leaving (3) in. Subsection 122(3) in the present Constitution becomes (7). That cannot be right.

I go now to page 7 and to clause 6, section 123(1)(e). It says that:

> "The Constitution is amended by repealing section 123…"

Section 123, as you will see from the old Constitution, is the appointment of police officers, and that is repealed, as we have just seen, by the Bill before us, so that the new section reads as follows:

> "The Police Service Commission shall have power to:
>
> (a) appoint persons to hold or act in the office of Commissioner and Deputy Commissioner of Police;
>
> (e) prepare an annual performance appraisal report in such form as may be prescribed by the Police Service Commission respecting and for the information of the Commissioner and Deputy Commissioner of Police."

That does not make sense. This is a new addition. What is its purpose? Why ask the Police Service Commission to prepare a report on the Commissioner of Police and his deputies and give the report to them? What is the point? Are they expected to act on the report against themselves? I make a report on my friend

then I hand him the report. For what purpose? He cannot be expected to act on that. It is a report about him. That is what it says:

> "The Police Service Commission shall have power to:
>
> (e) prepare an annual performance appraisal report in such form as may be prescribed by the Police Service Commission respecting and for the information of the Commissioner of Police and the Deputy Commissioner of Police."

Is it really for information? If it is merely for information, would it not have been better—

Mrs. Robinson-Regis: Member for Couva North, I apologize. I did not get the section with which you were dealing. Could you repeat the clause you are dealing with?

Mr. B. Panday: In the Bill before us, page 6, clause 6 reads:

> "The Constitution is amended by repealing section 123 and substituting the following new section:"

It goes on to say:

> "(1) The Police Service Commission shall have the power to—and we can go right over the page to (e). I want to deal with (e).

What is that power? That power is to:

> "Prepare an annual performance appraisal report in such form as may be prescribed by the Police Service Commission respecting and for the information of the…Deputy Commissioner of Police."

Is this merely for information? Would it not have been better that this report be laid in Parliament so that action can be taken for or against the persons involved in the report? If it is laid before Parliament, the House of Representatives may be informed. This is a matter on which we should inform the House of Representatives, and that information is important because the House of Representatives will have to determine whether he would be reappointed for another five years.

Remember how they are being appointed now. It comes before the House, which deliberates on it. If there is a report about the Commissioner of Police and the Deputy Commissioner of Police, surely it should come to the House so that the House would know whether to approve a renewal if that is what is being required. May I suggest the Government look at that as well.

Page 7. Clause 6 new subsection (2):

> "Persons appointed under subsection (1)(a) of section 22(1) of the Police Service Act, 2006 shall be selected in accordance with such criteria as may be prescribed by Order of the President."

Why make the conditions of their appointment different from that of people coming through the ranks? Remember that these are for contract officers.

Mrs. Robinson-Regis: Thank you for giving way. The Order is not only for persons who will be coming on contract, but it is for anybody who is going to that post. The Order is in the package sent by the Parliament and it clearly states what the criteria are. It is at clause 2 of the Order that is in the package which was sent by Parliament; in the package of legislation we are debating. It is not only for persons on contract, but anybody who meets the criteria necessary for Commissioner of Police or Deputy Commissioner of Police.

Mr. B. Panday: The reason I pointed it out is that the Act specifically states persons appointed under subsection (1)(a) or section 22(1) applies for the appointment of the commissioner and deputy commissioner on contract, specifically on contract.

Mrs. Robinson-Regis: The point is that the person can be someone who came through the ranks. It does not have to be someone from outside. The specific appointment would be a contract appointment, but not specifically for someone from the outside. The Order is very clear in the requirement. It talks about a university degree in certain areas and so forth.

Mr. B. Panday: The point I was trying to make was that legislation is not for one time; it is for a long time, unless it is repealed. This Act gives the President power to change the Order, so the Order is not written in concrete. That is the observation I made. I merely made it as an observation. You may want to think about it. Mr. Speaker, I thought I would bring this to the notice of the Members, so that they can look at it before we reach committee stage.

2.30 p.m.

Subsection (3) on page 7, states:

> "The Police Service Commission shall submit to the President, a list of names of the persons selected to be appointed for the approval of the House of Representatives."

Why bring the President into this? There are very serious implications for bringing the President into this because section 38(3) of the Constitution of

Trinidad and Tobago makes the President immune from civil suits. If, therefore, the Police Commissioner submits these names for the approval of Parliament, and someone wants to bring judicial review proceedings, to whom will they bring it? Who will be the respondent, the President? You cannot bring it against the President. Section 38(3) of the Constitution says that you cannot. Why bring the President into this? Why not have the Police Service Commission submit the list to Parliament for approval? If there is dissatisfaction with that list, then he is subject to judicial review. Once you bring the President into it, you exclude the President from judicial review by section 38(3). I think I will go back to the law.

Again, page 8 states that "The President may". Again, I would remove the discretionary word and make it mandatory.

> "The President may issue a Notification containing the names of the persons selected…"

Hon. Joseph: Thank you very much for giving way, Member for Couva North. Remember, one of the things that we were trying to clean up that currently exists is that the Police Service Commission makes recommendation to the Prime Minister, on the appointment of a commissioner. The Prime Minister exercises a veto. That is the most he can do. Remember, in order to remove the veto from him, it meant then that the recommendation of the Police Service Commission had to go somewhere. Remember, again, in your discussions, it was felt that this is the route through which it should go. If we are now saying that we should go that route, you are now bringing the President and you are quoting from the Constitution, which says that the President is immune. It means that we have to come up with a route that gets the recommendation here. Remember, we are removing the veto that the Prime Minister exercises. In exercising that veto, the recommendations have to come to him.

Mr. B. Panday: Hon. Minister, I appreciate the difficulty, but this is the point that I have always been making. By having piecemeal amendments to the Constitution, we are pouring new wine into old bottles. You will lose both the wine and bottle. That is why you are having difficulty with the piecemeal. I am suggesting, if you bring it through the President, you are making him immune from civil suit. If you want to give freedom to victims or people who feel they are victimized—the right to go to court for remedy, judicial review or whatever they use. Could we find a formula? That is all I am asking. That will obviate the difficulty that would result from the referral by the President.

Again, subsection (5) states:

> "The Police Service Commission shall appoint the Commissioner or Deputy Commissioner of Police only after the House of Representatives approves the Notification."

That is the same problem I raised earlier on. I suggest humbly that the word "Notification" be deleted and put nominee or nominees and that would solve the problem.

Lower down the page, in paragraph 8 at subsection (8)(a), it is stated:

> "where the officer is absent from duty without leave for fourteen consecutive days…"

If an officer or commissioner of police is AWOL for 14 days and has not contacted anybody—"yuh eh see him, yuh eh hear from him, he contacted nobody in 14 days", in Trinidad and Tobago, as we are going now, we would have 14 murders. I think 14 days is too long.

Since we have decided that we are going to speak on all the Bills together, may I, with your leave, comment on the Police Service Bill? What is required here, with the Police Service Bill, is total reform. You cannot do it piecemeal. It is not going to work piecemeal. For example, the terms and conditions of work of members of the police service must be amended. They cannot continue to work under these conditions. It must be amended so as to provide for meritocracy. It must be amended so as to provide for transparency in recruitment, appointment, training, discipline, promotion, transfer and to prevent any allegation or misunderstanding of victimization, racism, discrimination, nepotism, cronyism and what have you. The police service must be modernized. We can pass as many of these Acts as we want but unless we modernize the police service, with the latest in crime detection technology, DNA and other forensic instruments, and unless we provide them with training and new conditions of work, I do not think that we will go very far by merely passing this piece of legislation called the Police Service Bill.

I see that we did not include the Police Service Regulations in the new set. During the discussions we have had with the Government, we did point out to them that the regulations are outdated, archaic and anachronistic, and there is need for total review to bring them up to modern standards. I think, with the Police Service Complaints Authority, the main objective is to provide a means whereby people who have complaints against the police will be able to have them

investigated. We pointed out, when we met with the Government, as we are pointing out now, that we cannot have the police investigating the police. It would not work. We have to find a mechanism or investigating body that would allow for policemen to be investigated, without the burden of what is called corporate loyalty. I am casting no aspersions on anybody. We all know when people work for the same company or group, they develop a kind of loyalty; right Member for Laventille West. Therefore, it is difficult for men, as they say, to "rat" on their colleagues. It is better to have a body that is not connected with the police service, in order to investigate the police, under the Police Complaints Authority.

Finally, I want to remind the hon. Prime Minister that the next time we meet, he promised that we are going to talk about the Equal Opportunity Act. Thank you very much.

Mr. Gerald Yetming (*St. Joseph*): Mr. Speaker, the Prime Minister stated when he was winding up his piloting of these Bills, that it was his honour to work with the Opposition, in coming up with the package before us. It had to be an honour for him, because the Prime Minister has gotten everything that he wanted and more. The police service, today when this legislation is passed, will be under the control of the Government, by virtue of appointment of the Police Service Commission; all the commissioners having to come to Parliament for affirmative resolution. Therefore, the commission will be a creature of the Government. The appointment of the Commissioner of Police and the orders for the criterion and method of selection, come under the control of Cabinet. The criteria used for selecting the Commissioner of Police, or the process used in selecting, both come under the Cabinet. The Police Service Commission is now a creature of the Government and the Police Commissioner and Deputy Commissioner will also be appointees of the Government. When the original Bill came before us in June 2004, the original Constitution (Amdt.) Bill, it provided for a number of things. It provided for a change of name from the Police Service Commission to Police Management Authority. It provided for the constitutional delegation of responsibility for the Commissioner of Police, which is in the new Bill, and that is fine. It provided for a change in the manner of the appointment of the commissioner, then in 2004.

In 2004, the Bill that was debated here provided for the commissioners to be appointed by the President, after being advised jointly by the Prime Minister and Leader of the Opposition, and if that advice was not forthcoming within a reasonable time, he would have made the appointments “after consultation with”. In 2004, the appointment of the commissioners was still, to a large extent, the

right of the President and by him taking advice, some people argued. I did not have a fundamental problem with the joint advice. If you could have arrived at a number of people who were arrived at on the basis of the Prime Minister and the Leader of the Opposition agreeing, that is fine. If they did not agree, he would have done it in his own judgment, "after consultation with". The point is that now, where we are talking about the nominees coming to Parliament for affirmative resolution, what in effect we are doing is taking the authority from the President and putting it largely in the hands of the Government. The Prime Minister made the observation. He said he had serious reservations about the nominees coming to Parliament for affirmative resolution. He was absolutely correct. The appointing of a commissioner to the Police Service Commission is not a position in the public service, a position that a man is applying for. These are people whom you are asking to serve. I will guarantee you that on the basis and process we have put in here, few people would want to subject themselves to this affirmative resolution in Parliament, unless some changes are made. I will propose some changes.

In 2004, we had some concerns with the Police Management Authority. We were skeptical about the reasons the Government wanted to change the Police Service Commission to the Police Management Authority. It meant that the minute that the new legislation came into being, all the commissioners would have had to vacate. There would have been no positions for them and you would have had to appoint a new Police Management Authority. You achieved that now, because in clause 12(1) on page 13, it is stated:

> "…all the members of the Police Service Commission, appointed under section 122(1), shall vacate their offices within six months…"

Although you appear to be retaining the Police Service Commission, you are telling each one of the commissioners: "After six months you are gone." You will get a new batch appointed in the new process. They might be eligible for re-elections but why change them? You will put in your new process that you have control over. The wholesale removal of the commissioners cannot be an acceptable thing, bearing in mind that these commissioners had been appointed by previous Presidents and have been functioning.

I want to come back to this affirmative resolution for the appointment of the commissioners. The Prime Minister made reference to the fact that these people are likely—notwithstanding the consultation process before the nominees reach here, in debate, where they do not have a right or the ability to respond. A debate on the basis of what? When the nominees come here, are we all going to be given

CVs so that when the debate begins we will start to argue back and forth about what a man has on a piece of paper? People will not subject themselves to the ridicule and insults that are likely to pass under the protection of parliamentary privilege. The Prime Minister is absolutely correct about the concerns. I am not too sure if the concession that was made in bringing the Bill like this was adequate. I want to suggest that the Bill before us be amended to include the fact that apart from the affirmative resolution, that these nominations be considered by a committee of the House of Representatives. It must be considered by a committee in camera, that they would have the right to interview the individuals, so that there is no debate about the qualifications of an individual and about their right and ability to serve. Then when the recommendations are made by the committee to Parliament, they are accepted without debate, to protect the individuals.

Mr. Manning: By what mechanism would you guarantee that there is no debate?

Mr. G. Yetming: By there being a provision in the language of the law.

Mr. Manning: How could you do that?

Mr. G. Yetming: The law could prescribe anything. The law could prescribe the fact that the nominations would be considered by a committee of Parliament, in camera, and that the recommendations out of the committee—because it is a committee of Parliament.

Mr. Valley: You cannot do that! What you are proposing is that a committee of the Parliament will then be superior to the Parliament and that cannot happen.

Mr. G. Yetming: When the Parliament appoints a committee to act on its behalf, whether it is the PAC, the Parliament is asking, rather than 41 or 36 people have a long debate about an issue, that you put people whom you can trust to deal with the matter.

Mr. Valley: But it comes back to the Parliament.

Mr. G. Yetming: It comes back to the Parliament, but we should put in the law that it is accepted without debate. That is to avoid having to interview the individuals.

Mr. Manning: That raises another question. The process by which individuals would be interviewed by a committee of Parliament is even worse. The other thing is where individuals must now come and face a committee. On the basis of the experience so far with that committee system, why would individuals want to subject themselves to that? The particular member who has been specially guilty of that has flown, but even so, others can come.

Mr. G. Yetming: You think that an individual will prefer his name to be submitted to Parliament for a debate in open, rather than to submit himself to a committee where he is able to respond to the concerns raised, rather than in open session where he is not present to respond?

Mr. Manning: I do not know which one is worse. I suspect that the committee is worse, because men could be saying things to your face and you might be able to defend yourself in the committee. But then you ask yourself: Why must I expose myself to that? I have no need for that. It should be a prime ministerial veto. That is the ideal.

Mr. G. Yetming: Ideally, the selection of the commissioners for the Police Service Commission should really not be subjected to any resolution of Parliament. There was absolutely nothing wrong with the process you had before, which exists at the moment, where the President will appoint after consultation with. We have to believe that at some point, some Presidents will act independently and you cannot assume that because the President might be elected by an electoral college that the Government controls, that he will be biased; that is wrong.

Mr. Manning: I agree.

Mr. G. Yetming: We agree and I am making the point that I am speaking on the Bills. I am making my point that ideally, the original provision for the selection of the—[*Interruption*] I am not talking about the Commissioner of Police—the Police Service Commission should be left to the President, after consultation with. If you want to have some openness, if you wish, about the Police Service Commission, then I am strongly suggesting that if we are going the route of the affirmative resolution, that it be done in camera. Even if you want to go so far as not to put it to a committee, but to do it with the entire House. We could regulate that by saying that it should be done in camera, rather than subject these individuals who are considered to be prominent individuals, who can make a contribution, to the kind of parliamentary ridicule that they are likely to face.

Mr. Speaker, I am strongly advocating that the compromise for opening up the selection of the police service commissioners is fraught with danger and I agree completely with the Prime Minister. The concern that he expressed, I am agreeing with. It is a dangerous thing, in my view. In fact, the process will be such that many, many people will refuse to want to serve in this capacity. I accept that if the ideal of reverting to what exists in the Constitution, at the moment, that the Government give serious consideration to bringing this thing in committee, in camera and after the recommendations come to Parliament, for the committee's recommendation to be accepted without debate.

Mr. Manning: I thank the Member for giving way. Even if you go the route of in camera, it is fundamental to the system of Parliament that Members are allowed to speak. You cannot put into any Act of Parliament that the right of Members to speak be circumscribed. You cannot do that. That is fundamental to Parliament.

Mr. G. Yetming: I do not know that we are necessarily in disagreement. We are in agreement, insofar as the concerns that you have with respect to how and we must find a mechanism to protect them. I have put forward a suggestion. I have put forward the committee system, using a committee of Parliament. We will appoint the people whom we believe can exercise good judgment in the selection. There is absolutely nothing wrong with that. That is what committees are for.

On a minor point, the Member for Couva North made reference to there being conflict, with respect to your new subsection (6), where the President, in his own discretion appoints a chairman. That is in conflict with subsection (3) of the old Constitution which you are trying to renumber to new subsection (7). Section 3 should be deleted, if you wish, to retain new subsection (6). I want to make a point with respect to subsection (3), where you talk about "qualified and experienced in the disciplines of". It is a minor point. You talk about law, finance, sociology and management. With respect to this new Police Service Commission, their function is to make recommendation, but hire and assess is in terms of the commissioner's performance and possibly to fire. They are performing an HR function. I want to suggest that you do not have to have a finance man in there. Put in a HR specialist or someone along those lines.

I want to come to the Commissioner of Police. I made the point earlier that the Commissioner of Police shall be selected in accordance with criteria prescribed by order of the President and that the person selected shall be subject to affirmative resolution. I made the point that in both cases, it really puts the decisions in the hands of the Government. In the case of the criteria and in the case of the selection process, they will be determined by Cabinet. It could be changed.

I want to comment on certain aspects of the order you have put in the package before us. Tomorrow morning the President could issue new orders amending the criteria or the process. That is possible. I am making the suggestion that the orders of the President, relative to that section, should be decided after, if you wish, negative resolution. At least, if the Government decides that it wishes to change the criteria—the criteria which are spelt out in the package sounds fine—who is to

say that somebody would not wake up one Monday morning and change the criteria to suit the particular candidate and the next thing is that the order is issued and we do not know? I am simply suggesting. You may not always be there. It could be somebody else and it could be a rogue and a vagabond in that position, who can do all of these things with the right to do them.

We have to ensure that legislation protects—The suggestion is that, insofar as—[*Interruption*] I did not call any names. Do not point there. I am not taking any basket—the criteria and the process are concerned, the order of the President should be subject, if you want, to negative resolution of Parliament. Insofar as the selection of the Commissioner of Police, I also want to suggest, the role of the Commissioner of Police is different from the police service commissioners. I agree, if that is the way we want to go with appointments, this is a step in a particular direction and I would expect that other appointments in other areas of the police service will come under similar regulations. I want to suggest that where the Commissioner of Police is concerned, that the Government also considers a committee of the House of Representatives, to meet with the man, because what would happen in the situation that we have here is that the nomination will come forward from the President or wherever, to Parliament and we would have a CV. We would have known about a lengthy process, which I want to touch on. What will happen? Are we going to engage in a debate and talk all kinds of things about the man when—[*Interruption*]

Mr. Manning: Prime ministerial veto on this matter is not a veto that allows the Prime Minister to interview anybody. It is a safeguard mechanism in the event that the Prime Minister is aware of something, which he may or may not wish to disclose, that he can exercise a veto. What is being proposed is in lieu of that. In other words, all the Parliament is expected to do, if the Parliament is aware of something that prevents the gentleman from properly holding that office, is that the Parliament makes it clear. If the Parliament wishes to be responsible, then there is no real debate. You either know something about the individual, or you do not. If you do, it can be the subject of deliberation. If you do not, then let it pass and he is appointed.

Mr. G. Yetming: I was only making the point that rather than have simply a name and a piece of paper coming to Parliament for a debate, you could also have included provisions. Yes, I do not have a problem with the affirmative resolution of Parliament. That person could be agreed on by a committee of the House of Representatives, not necessarily in camera because that is a public position as

compared to the police service commissioners and that the recommendation of the committee could then come to Parliament for the affirmative resolution. At that stage, there should be no reason for debate, because the committee would have taken all the information they may have had from the whole side, through these representatives and made a decision.

Hon. Joseph: Thank you for giving way. You mentioned the selection process order and you mentioned the qualification and selection criteria order. Remember the primary responsibility of the Police Service Commission would be to ensure that it appoints the most suitable candidate for this particular position. Coming to the Parliament is the replacement of going to the Prime Minister for signing off. There is an assumption being made that it is only the most suitable person whose name will be coming to the Parliament for the Parliament's approval.

Mr. G. Yetming: Are you suggesting that when that name comes to Parliament for affirmative resolution, people may not want to debate it and you may not have individuals on the opposite side, whoever is on that side, wishing to raise all kinds of issues? All I am trying to say is could we not avoid that from happening, having gone through a lengthy process? You cannot assume that because it would have gone through a process, when the name comes here, nobody will wish to say—[*Interruption*]

Mr. Manning: I thank the hon. Member for giving way again. There is a fundamental principle. The principle is, however much desirable you might consider it is to be, that it is improper to circumscribe the right of Members of Parliament to speak. You cannot do that, because Parliament is designed for discussion. That is what Parliament is about. You cannot have a process that says you send a recommendation to the Parliament, but you cannot adjudicate properly on it. In other words, the Parliament is a rubber stamp. That cannot be proper.

Mr. G. Yetming: I do not agree with you. When the Parliament, through the PAC, is asked to look at whatever it is, they look at it, on behalf of Parliament. It comes back and that is fine. I am only suggesting that we are putting in a procedure here that maybe not for the next police commissioner. You do not know what will happen down the road. There would be an abuse of process here because everybody feels he or she has a right to speak and say whatever he or she wants.

Mr. Manning: Let me finally say, therefore, that we agreed to it because it suffers from a lot of disabilities. It is by no means an ideal situation. We feel that we will revisit that matter when we come to discuss constitution reform.

Mr. G. Yetming: I do not have a problem with that, if that is the position you want to take. If you get the majority here for the changes that you propose and the expectation that, if constitution reform does not take two years but five or ten years to happen, then we will be living with a situation that we may not find palatable.

Mr. Valley: But the world is not perfect.

Mr. G. Yetming: That is so. I am simply making some suggestions for the consideration of the Government.

While we have the proposed orders of the President, with respect to criteria and selection process and while it is not a part of the legislation we have to approve, I want to make a comment on the selection process order. This process that you have defined here is a most cumbersome arrangement that I think that you will need to change this order very quickly. You might as well change it from now, rather than wait to find that you cannot get a police commissioner to come with a revised order for a negative resolution, rather than go through the process with ads and then three selection groups and a short listing.

I want to draw to your attention the two areas that I have a concern with. I think that if you have selected a police service commission of competent people that went through a parliamentary process and if their primary function is to find commissioners whenever you need to find them, once every couple of years, assess their performances and make determination as to whether they should go or not, why not give these competent people the right to do exactly what the three selection groups are being called upon to do? You are now going to have the President appoint three selection groups; five public servants, nominated by the Minister of National Security; five police experts from the Caribbean and the Commonwealth and another group of seven others, priest, lawyer, doctor and whatever else. These three groups have to receive the CVs or information that you have on all the candidates and they each have to reduce them to eight each, so that you can conceivably have, out of the three groups, 24 people identified. You must then name them in the newspaper. Why not have the police service commissioners do the shortlisting? Why go through this process with three selection groups? As far as those three selection groups are concerned, what is a quorum? Suppose, out of the seven, you cannot get seven to meet, to treat with it and interview subsequently and only five could do it? Would the two raise objection and file for whatever to say: "I could not attend the meeting and, therefore, that recommendation that went

forward did not bear my name and, therefore, rule the nomination to be null and void"? Why are we doing that? The police service commissioners—[*Interruption*] That might be so, I am independent.

Mr. Manning: I understand that.

Mr. G. Yetming: We have the services of a firm experienced in the conducting and assessment of top police managers. Wherever you get that firm from, it shall be contracted by the Ministry. Why the Ministry? Why not the Police Service Commission? If the Police Service Commission, at the end of the day, has to pick the man, why not have them advised by a firm that they engage and not have the Ministry of National Security engage it? It could be suggested that that is a further mechanism for governmental control on the process.

I want to make two suggestions where this order is concerned. One is that we disband the three selection groups. It is a total and absolute waste of time. It will do no more for the process, than if the Police Service Commission did that; go to the firm of consultants, let them do their thing, they do the interviewing, shortlist and come up with a name.

Mr. Speaker, there were supposed to be four fundamental principles that guided the Opposition, relative to any new legislation, one of which is the abuse to power. I am submitting that on the basis of all the concessions made, that we have opened the door—I am not dealing with the current administration necessarily, but because it is legislation—for governments to abuse power, by virtue of the authority they have now been given, from stripping of the President, with respect to the police service commissioners, the Commissioner of Police, the process, and what have you. Thank you very much.

Mrs. Kamla Persad-Bissessar (*Siparia*): Mr. Speaker, I remember when we formed the Opposition, the hon. Prime Minister, maybe in a moment of pique or something that had probably angered him, said to the nation that the Opposition is very totally irrelevant. Today, as with the Bail (Amdt.) Bill, it is very clear that the Opposition is very relevant when it comes to dealing with matters that would touch and concern fundamental rights and obligations of the citizens of Trinidad and Tobago. Today, we have come to the Parliament with a package of legislation that will make fundamental changes to the way in which we have been accustomed, with respect to service commissions in the country.

When people speak sometimes—the Member for St Augustine was saying to me—they do it if they are generous or because they have a genuine concern about it and they make statements. Sometimes they just use that opportunity as a pretext

for something else. I would be generous today and say that the Member for St. Joseph was probably, generally concerned about the manner in which these appointments would take place. With due respect to him, I think he has missed the point completely. In order to clarify that and maybe there are others who would have similar concerns, I think it is very important that we go back to basics, which is the existing Constitution, and understand.

The Member spoke about stripping the President of power and the discretion. The Member does not understand that the fundamental basic principle was that the President was accountable to no one. The Member for Couva North has already explained the manner in which a President is appointed. We all know the President is appointed through the Electoral College. The President is the nominee of the Government and because of the way in which that appointment takes place, he is indeed the creature of the Government. When he gets into office, however, many governments will tell you, he does not necessarily remain the creature of the Government. He may very well have his own—[*Interruption*]

Mr. Manning: The President is not necessarily the nominee of the government.

Mrs. K. Persad-Bissessar: He has always been.

Mr. Manning: Because the Electoral College comprises Members of both Houses. In the Senate, there are nine Independent Senators, six are Opposition Senators and 16 Government Senators, one is the Presiding Officer. It does not follow, especially as the selection is done by secret ballot. That is a non sequitur.

Mrs. K. Persad-Bissessar: With due respect, Sir, it is not a non sequitur. Our experience has been that there is the theory on paper, in terms of what you are saying, but there is the reality of what happens and what has happened in the Parliament. When the President makes the appointment, he may well be the creature of the Government or he, once having taken the post, decides that he is his own man. We have had that experience too. If we look at the list of appointments made by the President—this is not impugning the character of any person, they may all be good men and women—the point made by the Member for Couva North is very clear, which is to say that the persons tend to come from the same group, clique, club and circle. It does not pick the whole composition, geographic or otherwise, of the nation. If we read the appointments, I will not do that because I do not wish to go through the list of names, but anyone wishing to have access can have access. We can go through every commission appointed by the President and every body, where the members were selected by the President. They are persons from one group or clique.

When we had the crime talks, we had to find a way that would make consultation meaningful. The President consults with the Prime Minister and Leader of the Opposition but, in effect, what happens is that he goes and does his own thing. He does not necessarily have to follow any one or both of them because "consultation" in legal language means that we talk. Consultation does not mean I am going to do what we talked about. The President was not accountable to anyone.

The Member for Couva North has mentioned the ouster clause that is subsisting in our Constitution, where we cannot take the President to court. There are limited exceptions, but that ouster clause is there. When the President acts and makes these appointments, whether it is to the Police Service Commission or the Teaching Service Commission, you can do nothing. He talks with the Leader of the Opposition and the Prime Minister and goes off on his own; as the lawyer says: "He goes off on a frolic of his own" and he decides: "Them 'fellas' you named, I do not want any of them." I do not know if the Member understood that there is the possibility that when the President brings the names of those nominees, the Government may not even agree to them. Why do you feel that it is only the Opposition? The Government may not, as well, agree to them. To say that using the affirmative resolution and with the built-in simple majority, you are giving the Government veto power, in effect, it is not correct, in my respectful view. The Government may well come, just like the Opposition, to say: "I do not agree with these names. You consulted with me and I suggested to you X, Y, P and Q but you now come here with Mary and Brown. I do not agree." Either side can now say that.

In the past, in the existing system, you could do nothing. The appointment had already been made. The President is not an irrational person. The President is not an arbitrary person. He full well knows that when that document comes, the names have to come to Parliament. Then the President is really going to have meaningful consultation. When the President sends those names, do you think the President wants his name impugned in the Parliament that there was consultation on X and Y and this has happened? I respectfully disagree with the comments put forward by the colleague, the Member for St. Joseph, that this system for affirmative resolution is going to get the kind of effect that he wants.

I wonder why we are afraid of elected representatives of the people? Why is it we are afraid of those who want to hold big "wuk", to take a big job to come before the scrutiny of Parliament? Why are you afraid of that? What is wrong with that?

When you go to the United States and you see the system there, every nominee for high public office has to go through Senate hearings. We have not gone through—[*Interruption*] It is a different system and society. We have not gone that route. We have used our own route of the Westminster model to bring it to the House of Representatives, to the elected representatives of the House.

What the Member is suggesting is, in effect, to have what happens in the United States. This is what I think the Member for St. Joseph is suggesting—and it cannot happen—when he says that you bring it to a select committee, and that committee must send it back and we cannot say anything. Members on the other side have already said that is clearly to derogate from the supremacy of the Parliament. No committee of the Parliament can have greater powers than the Parliament itself. It cannot happen! The committee is a creature and subset of the Parliament and the Parliament is the supreme authority. What is the point of sending these notices to the Parliament and then say: "Listen, fellas, I do not want you all to decide this; send it to a secret committee, let them sit in camera in a back room and then come back out." What is it with us? Why is it that we are afraid of transparency and openness? That is what this method will achieve; that you will bring the appointments out into the open. It will be in the public domain. They will be done so that the entire public is aware of what is taking place. What is the fear? When I listened to the Member, the fear appears to be that these people would be afraid to put their names forward because they do not want to withstand that scrutiny. They cannot or are not willing to go through the parliamentary scrutiny. What is wrong with that?

If it is that a person is unwilling, is it because there may be reasons why they are unwilling to put themselves through that scrutiny? If it is that you feel that there are things that may come out during that scrutiny, then do not put your name forward, because you do not belong in that position. Those who can withstand that scrutiny—people may cast aspersions but they do not have to be true. I have had many things said about me, as you have had. Many of it is not true, but that does not stop me from coming into the Parliament and doing my job and saying what I have to say. It does not stop any of you. For those persons, if you cannot stand up to the scrutiny or you are afraid of bad talk, then you may not put your name forward. I am of the view that this mechanism that we have developed is going to give us one that will allow us a greater transparency, openness and appointments. Most important, it is going to give us meaningful consultation with the President.

Mr. Manning: I am rather enjoying this debate that is taking place here. Searching as we are for truth and examining as we are, with all the proposals that are before the House, there is agreement between the Government and the Opposition and we are going to support what is before the House. That does not prevent us from examining it. The reality is that those of us who step into the political arena understand that when we do that we are subject to all kinds of scrutiny and vilification. But there are those who say: "I am not in the political arena, why must I subject myself to that? I am not in the political arena and I do not wish to subject myself to that. If, therefore, I have a contribution to make and I would like to sit on a service commission, to be able to do that, why should I now subject myself to that kind of scrutiny, not that I am afraid of scrutiny, that exposes me to vilification." The society is too small.

Mrs. K. Persad-Bissessar: I beg to disagree with you. If you want to hold high, public office—you are making a distinction between the politicians and others. If you want to hold high, public office, then you must be able to withstand public scrutiny. That is how I see it. You want high, public office but that is one of the highest offices in the land. The Commissioner of Police is one of the most important positions. One that is most invasive, pervasive and every kind of word that you can find. Therefore, if you want to hold such an important, high, public office, then come and take the scrutiny of the public and withstand public scrutiny. If you are unwilling or afraid so to do, then you do not come forward. Therefore, the men and women who would be able to withstand that scrutiny would come forward and the best candidate could be found.

We said that this was not the ideal formula and the Government also agrees that it is not the ideal formula but the alternative, which is the existing position, is obviously not working. That is why we are looking at change. The first formula, the original formula, put forward by Government, would not have worked in any event. That original formula suggested that the President would work on the advice of the Prime Minister and Leader of the Opposition. Why is advice different from consultation? However, he said where there is failure to agree then he would act on his own discretion, so you would come back down to square one.

All that the Leader of the Opposition or the Prime Minister has to do is not agree. If the Prime Minister does not like the person they just do not agree. If they do not agree, it goes right back to the hands of the President, who would put us back to the same position, as the existing position. We came out of that. I said that it is not ideal. We have suggested and the Member for Couva North has mentioned three/two. It was felt by the Government that Trinidad and Tobago could not

handle that at this point in time. We have said it before, right next door in Dominica, we have seen where the Elections and Boundaries Commission, their equivalent of it, the Parliamentary Commission, is made up of three/two. That was rejected. This formula, in my view, which is on the table, has given us a middle ground between the American system and the Westminster system, where there is some parliamentary scrutiny, which has replaced veto power of the Prime Minister. Enough on that.

On the issue of due process to the persons who are nominees, I have heard a Member from the other place make some pronouncements on a very long article about crime talks and third forces. An Independent Senator talked about due process, which is similar to the concerns expressed by the Member for St. Joseph, that these persons will not be able to reply. It was Prof. Deosaran who was the first person I heard talk about the committee. He did not go so far as to say that the committee would send its report and the Parliament would not debate, but he is saying that there should be some kind of committee, in order to ensure due process.

Let us understand what due process is. Due process is when you have a right and a job. The level of due process is where you are applying for a job and that due process right is very, very low in the jurisprudence. I think both Members are forgetting and probably have not looked. There is nothing that precludes the matter that is brought to the Parliament from being preferred to put the law. The Constitution is part of the procedure of Parliament. We have seen it here many times. We may have a package of Bills when they were initially laid and a Motion came up and we say: "Let us put this to a Joint Select Committee." Is that not true? We have done it with so many things. We have done it with reports, orders, anything that comes and is within the jurisdiction of the Parliament. That is part of the process and procedure of the Parliament.

3.30 p.m.

So, to say that I must now write into the Constitution that this matter must go to a joint select committee is a waste of time. It may well be that when it goes to the committee, there would not be anything for anybody to question. Why am I mandated to send this to a select committee? That is subsumed within the powers and procedures of the Parliament. There is no need for that. If there is need, the rules are framed in such a way that it can go to a joint select committee. However, once it goes to any select committee, it must come back to the "supreme being", which is the Parliament itself.

There are just one or two drafting matters. We had agreed on the policy, and they are going forward with the policy. However, we did not see the final drafts until Friday. The other team did agree that we would deal with those matters in the House. In the committee stage, we could pick those up. The Member for Couva North and the Member for St. Joseph have mentioned this matter with respect to the Order.

At the time, we had pointed out that the Order contains provisions that were very bureaucratic and, therefore, we needed to look at them. We are not passing the Order today. The Order is just really for information. I think that is important. We had agreed, not only with the Order for the selection, but we also agreed with the regulations. Therefore, I do not think that we need to go into those details. We have given the Government our suggestions for the regulations. We have passed them on to the Member for Arouca South. We have also given our submissions with respect to provisions within the Order.

What we would be passing in the Parliament today would be the Constitution (Amdt.) Bill, the Police Service Bill and the Police Complaints Authority Bill. With respect to the Order and, in committee stage, what I would be proposing, for both the Order for selection and the regulations, is that they should be subject to the affirmative resolution of the Parliament. At the committee stage we would want to suggest that. So that we would have sight of them, and they would not be done, again, behind our backs and we would not be aware of them. I think that would allay the fears and concerns of Members.

Mr. Speaker, I want to go back to when we first started these talks. We have come so far and there is no going back on this agreement today. We are going forward with it. If there are drafting problems we would deal with the drafting issues at the committee stage. On the policy issues, on both sides of the House, we have firmly agreed. The matter does not end there. I do not think that we can afford to pat ourselves on the back and say: "Hey, well done, good job and so forth." I am very glad that I had the opportunity to participate in those talks and to contribute to the decisions therein. We really need to see where we are going and what we are doing.

When the hon. Prime Minister came to Parliament—the Prime Minister would recall his statement. I know there is a genuine concern. You know, there is the saying that the road to hell is paved with very good intentions.

Mr. Ramnath: Benny Hinn is coming.

Mrs. K. Persad-Bissessar: When the Prime Minister came to this House, he made a statement on November 18, 2005 that we had reached agreement on a number of issues. It was very clear that this package of legislation was just a part of a larger initiative. I would just like to remind Members of those initiatives. I quote from the hon. Prime Minister's statement on November 18, 2005.

> "Mr. Speaker, clearly no system is workable with legislation alone, consequently, in addition to the legislative package, we also discussed the management of the protective services and other to which, understandably, this entire House and I daresay, the wider administrative issues. Indeed, the matter of management and administration of the protective services is one population is keenly paying attention. We are all cognizant of the fact that the best-written laws, with the best of intentions and teeth to make a difference on crime are weak in the hands of a country, whose protective services are not sufficiently motivated."

The Prime Minister indicated that he was very pleased to announce nine pieces of legislation which were identified. These were: the Police Service Reform legislation which is this package; an amendment to the Bail Act, which we have already done. We talked about the introduction of a Bill to establish a Gun and Kidnapping Court; revision of DNA legislation; amendment to the Criminal Injuries Compensation Act, strengthening of the money laundering legislation; protective services compensation legislation; amendment to the Motor Vehicles and Road Traffic Act; and the introduction of new equal opportunity legislation. With respect to the last one, the teams have agreed that would be the next item on the agenda, but what has happened with all these others. I know that there is no linear progression; it must be that there would be multiple progressions. Therefore, what is happening with all these pieces of legislation?

Mr. Manning: I thank the hon. Member for Siparia for giving way. We were just dealing with the Bills seriatim. As we deal with one, when we get it out of the way, we are going to deal with the next one. We have dealt with the Bail (Amdt.) Bill in relation to kidnapping and now that is out of the way, we are now dealing with the police legislation. When that is out of the way, we are going to deal with the Equal Opportunity Bill, and when that is out of the way, we would agree on a schedule for the other Bills.

Mr. Ramnath: You may not be there long enough.

Mr. Manning: We are dealing with them one by one. That is the best way to deal with them.

Mrs. K. Persad-Bissessar: With due respect, I do not believe in seriatim at all. If we are going to be dealing with crime the way it is now in the country, we cannot do one and then one. These Bills should be drafted. These Bills do not need the Opposition votes. It is the duty of the Government, in my respectful view, to draft them and lay them on the Order Paper. We have no desire to come now and draft these Bills for you. These are squarely within the four corners of your ambit. Therefore, we need them to come forward. We have been talking about DNA legislation for the longest while. An Act was passed. We have been hearing about 14 and 20 amendments and so forth, but whatever they may be, bring them on. That DNA legislation is so vital and important. We need to get that done. We have seen the carnage on the roads. We have agreed but, with due respect, it must be multiple. It cannot be seriatim; it cannot be one after the other because we would never get it done.

This package was a major package and it has been in the making for years. I know that in the drafting department there are many copies of these things so bring them out and let us look at them.

Mr. Valley: It is on the agenda.

Mrs. K. Persad-Bissessar: Everything is on the agenda. Where is it? Put it on the Order Paper. With due respect, there is no agenda for talks on these Bills. You do not need our votes on these Bills. Bring them on. All these pieces of legislation, each one of them probably contains more than one Bill. We have been talking about them time and time again. If we are serious—I know you are serious—then we need to get the actions and not just the words. We need to get action on it. Look how serious this matter is.

In the Prime Minister's statement, he said that they would be talking to the Law Association, the Judiciary and so forth to see what we could do about the administration of justice. I do not know if that has happened. I really do not know if that has happened. I do know that each year when the Judiciary puts out its report the case backlog keeps increasing. It is increasing each year.

You would recall in this very House, I mentioned the statistics in the Magistrates' Courts. The basic backbone of the justice system, especially the criminal justice system is in the Magistrates' Courts. This is where the ordinary man goes for justice. If it is that year after year nothing is being done—[*interruption*] Do you want to go home? [*Laughter*] You would have to wait because you need our votes today.

Mr. Speaker, I mentioned the number of cases in the Magistrates' Courts. We talked about the backlog of cases. I gave you the figures for 2002, 2003 and 2004 but when we looked at 2005, which is the last report, once again the number has increased. So, we would see in the 2003 to 2004 report the case load was 465,767 cases and there are only 40 magistrates. There is an average of over 11,000 cases per magistrate.

When we come to the 2004 to 2005 report that has increased now to 477,703 cases.

Mr. Ramnath: They were very anxious to bring Panday's case.

Mrs. K. Persad-Bissessar: Each year the backlog is increasing. What is being done about this? Mr. Speaker, I discovered, looking at the *Draft Estimates of Recurrent Expenditure* in fiscal years 2002, 2003 and 2004, the Government's actual expenditure on something called the Caribbean Court of Justice Act was $206.7 million. Do you know that court has not heard a single case dealing with the rights and obligations of the people of Trinidad and Tobago and of the Government of Trinidad and Tobago? [*Interruption*] What is the price for justice? The price for justice is the 477,000 cases in the Magistrates' Court. That is the price. Out of a population of 1.5 million, you are talking about 477,000 cases in the Magistrates' Court. That came out of the report of the Judiciary. I am not making this up. Every year the report is showing an increase, but I have seen absolutely nothing being done to bring down the backlog in the Magistrates' Courts. I am not even talking about the High Court. There is a similar situation in the High Court. Why? We have not dealt with the administration of justice in this country, and we want to talk about dealing with the criminals, and we want to pass all these fancy police amendments and Constitution amendment and so forth.

The Member for Couva North made the point; that is not going to stop the criminals. We need to deal with the system of justice in this country if we are serious about tackling crime; if we are serious about just upholding the fabric of the nation. Mr. Speaker, when last have you been to a Magistrates' Court? It must have been quite a number of years since you have descended to those quarters in the magistracy. Do you know that in San Fernando, for two years now the Government has been paying for buildings every month to house the Magistrates' Court and they have not moved the court? The court is still in that broken-down dilapidated place. If you go in there, you would see the human suffering of persons who are going to seek justice.

Mr. Speaker, you would remember when the prisoners were cuffing down each other inside there. There was a riot taking place in the Magistrate's Court. If you were to go there you would see that nothing has changed. Whilst we are busy trying to change the Constitution and so forth, we are not dealing with the basics in the country. Nothing is being done for the magistracy. Why do we not increase the number of magistrates? In fact, when our team met, this was one of the suggestions that was made. We made the suggestion that you need to increase the number of magistrates. You cannot have 40 or 41 magistrates dealing with 477,000 cases. Each year, 70,000 more new cases are being filed, and you are disposing just under 70,000. So the 477,000 cases would still be there, unless you intervene and put some sense into the system; one of which is to increase the number of magistrates. This was a suggestion that we did make.

Mr. Speaker, the Mackay Commission talked about all the things that could be done. I remember, when I was in the Attorney General's Office, I do recall seeing several Bills drafted to put into effect the recommendations of the Mackay Commission on the administration of justice. These are things that we are talking about. Thank goodness, in the Parliament, you have some very bright, intelligent people doing this digital recording. In the majority of the courts in this land, if I say three words, I have to stop talking.

Mr. Ramnath: Still?

Mrs. K. Persad-Bissessar: Yes. They have to write it by hand. I cannot even finish a sentence, and the witness cannot even finish a sentence. Each case is taking forever. The Americans had to come and give us electronic equipment. Mr. Speaker, why can we not deal with these matters? What about a remand court? We have talked about this. You could go through the Mackay report. Everything is there to assist in reducing that kind of horrendous situation that you find in the poor man's court, the Magistrates' Court. But we find the time to spend $206.7 million on a court that has not dealt with one case. [*Interruption*]

Mr. Speaker, I want to take this opportunity to thank all those Members from the NGOs, the CBOs, the Chamber of Commerce and all the individuals in the private sector who met with Opposition Members and brought their suggestions forward. I would really like to thank them for the work that they have done and their assistance in bringing things forward.

As we say, it is not ideal, but given the situation in the country and the wishes and concerns of many persons, the Opposition and the Government have reached to this pass. As with any other piece of law, it may work well; it may not work so

well, but then the law is not in concrete. It does not last forever. It is not cast in stone. Again, it could be revisited and we could sift out what is good from it and use it and sift out what is bad.

Mr. Speaker, what is the way forward for the other service commissions? Once more, it is the whole issue of constitutional reform. We have started. Do we wait, as we waited for the Police Service Commission until everything was in crisis to make a change? Do we wait for a crisis in the teaching service? I think there is one there already. That is another point.

Mr. Manning: What about the other commissions?

Mrs. K. Persad-Bissessar: Certainly, we could look at the other commissions. We are not going to do them on a piecemeal basis this time. We have agreed that there should be a parallel track of constitutional reform, and that parallel track is not parallel at all. Parallel means that the two have to happen at the same time. That is what I understand the word "parallel" to mean.

Mr. B. Panday: One got derailed.

Mr. Manning: Mr. Speaker, there is, indeed, a parallel track. We have advised our colleagues that we have started an exercise within our political party itself which is a prerequisite for coming with proposals and, indeed—

Mr. B. Panday: Mr. Gordon has done that.

Mr. Manning: I am sure that you had a significant input in the matter. What we propose to do, following our own discussions, is to formulate proposals which we would then take to our hon. colleagues opposite and then we would begin the discussions. It is a process and it is being done.

Mrs. K. Persad-Bissessar: I have no reason to disbelieve the Prime Minister.

Mr. Valley: It is in our manifesto.

Mrs. K. Persad-Bissessar: I am saying sure and, therefore, we go on that parallel track.

Mr. Valley: Constitutional reform is in our manifesto.

Mrs. K. Persad-Bissessar: That is how many years now? Is it five years?

Mr. Valley: In 2002.

Mrs. K. Persad-Bissessar: So, we are getting there. These things do take time. I understand your constraints and I understand you have another retreat. I guess you would talk about constitutional reform in that retreat.

Mr. Manning: No.

Mrs. K. Persad-Bissessar: So, it is not a priority on your agenda then? Mr. Speaker, I am saying to the Government, in similar good spirit, and in terms of dealing with the crisis in the police service, the other services are also, if not already in crisis, on the edge of the precipice. Therefore, we must look seriously at all the service commissions and decide where we want to go with them and what to do. For example, what has happened to the Teaching Service Commission? Do you want to give me a proposal?

Mr. Manning: Mr. Speaker, the Member is very generous this afternoon. What I was going to suggest is that we could include that on our agenda for discussions because, indeed, there is a proposal that we would like to make with respect to the Teaching Service Commission. The problem is not there, but the problem is with the Judicial and Legal Services Commission. There is where we have a difficulty.

Mrs. K. Persad-Bissessar: The commitment was for constitutional reform and we would look at that. We must be careful that we do not get caught up in these piecemeal things and the tinkering. Of course, we must also be careful that we do not get caught up spending all our time with you talking at Whitehall. You have a duty to govern and, therefore, you should send your suggestions and we would look at them.

Mr. Valley: The Prime Minister cannot go to Rienzi. It is no longer available to you.

Mrs. K. Persad-Bissessar: Is that right? Well, I was not aware of that. You probably know something that I do not know. I do not know anything about that at all. As far as I know, I was at Rienzi yesterday. Is there something that you have done that I do not know about? I know that you fellows are deadly. Did you send some fellows to burn it down? I do not know.

Mr. Ramnath: They could meet at Beach Camp.

Mrs. K. Persad-Bissessar: I am sure you could make Beach Camp available to us. We could have our constitutional retreat there. On that very light note, once again, let me say that we are very happy that we could reach to some agreement. I trust that what is now needed is implementation. We have so many laws on the statute books that have not been implemented. There is a tremendous amount of work that would flow once these Bills are passed. There is a tremendous amount

of work that would have to take place in order for this thing to work. I would strongly urge the Government to set up a committee now for the implementation of this legislation.

Let me tell you an experience I had. The UNC passed a law known as the Criminal Injuries Compensation Act to compensate victims of crimes. When we were there, we did not proclaim it for one year. We said that during that year we would set up a unit within the specific ministry for them to start to work out how to implement it and in what way to implement it. It was called the Criminal Injuries Compensation Unit. This was not required by law, but it was done because you have to get people to sit and put things together in order for it to work. Do you know what happened? That unit never put things in place and, therefore, even though the Act was proclaimed, we could not utilize it and we had to go to court.

As you know, there is judgment of the court which now mandates the Government to appoint that board by May 01, 2006. Let that not happen with this. I am saying that there is much work to be done, and if you have not already done so, with due respect, my suggestion is that you put a team in place immediately. That team's duty would be to see what are the processes and resources needed for the legislation that we are going to pass today for it to be implemented. If we fail to do that, we would be coming back here four years down the road with the same existing police Bills.

I noticed here that the old regulations would continue until the new ones come into force. I have seen these Standing Orders of the Parliament and when they came into effect they were made by order of the governor in 1961. When our 1961 Constitution was passed it said that the Parliament may make such rules to regulate its own procedure. The government made them. These are the first Standing Orders of the Parliament. When the 1962 Constitution was written it said that the Parliament may regulate its own procedure. The Constitution Act said the existing Standing Orders that were enforced before this Constitution shall remain. The 1976 Constitution says that the Parliament may regulate its own procedure, but the Constitution Act provided for the existing Standing Orders. You know, since 1961 we have been in this Parliament with these Standing Orders. We have made one or two changes, but very few changes. Why am I using this example?

Mr. Manning: Mr. Speaker, what the hon. Member is saying is, in the first instance, those persons who framed the Standing Orders did so good a job and had such tremendous foresight that those orders are able to subsist until this day. That is what you are saying. [*Laughter*]

Mrs. K. Persad-Bissessar: I am not saying that. I am saying that it is the failure of those who had a duty to make the rules; it is that failure that these 1961 Standing Orders are here. I used this as an example to say that the new Police Act tells us that the old Police Service Regulations would remain in force until new regulations are done. Let us not end up 35 years later operating under the old Police Service Regulations. At the committee stage, I would suggest, upon the proclamation of the law that a time frame be given for the making of those regulations.

Mr. Manning: They are ready.

Mrs. K. Persad-Bissessar: Well, if they are ready, that is not a problem. So, within three months, there should be a proclamation. We are going to put that in. It is not just that one. Mr. Prime Minister, with due respect, there are numerous pieces of legislation with the same problem.

Mr. Manning: Accepted.

Mrs. K. Persad-Bissessar: You are in a very "accepted" mood today as well.

Mr. Speaker, with those words, I thank you. [*Desk thumping*]

Miss Gillian Lucky (*Pointe-a-Pierre*): Mr. Speaker, thank you very much. Much has been said and, in terms of the contributions that have been made thus far, some of the speakers have actually gone into great detail and specificity with respect to the various provisions in the Bill before us.

Mr. Speaker, I want to use this opportunity this afternoon to really get some kind of clarification on some issues so, at the end of the day, I think that many of us would be in a better position to give support to something based on informed choice rather than just going with the flow and, perhaps, not fully understanding the repercussions of the legislation that is before us.

If I might, in what I would like to think is my style, get straight to the point and deal with this particular issue, and one of the great concerns has been with this Westminster system of government that we have. How do you get the correct formula? Clearly, the Westminster system that operates in the United Kingdom and the Whitehall model that we have here is something that has always provided

us with a challenge. The Westminster system has ethics, traditions and conventions that make the system work in the United Kingdom. When that system was transplanted into the Caribbean, more specifically, Trinidad and Tobago, many of those conventions, traditions and ethics somehow did not become a part of our system.

That is reflected today when one of the greatest challenges faced in this piece of legislation is how do you get it right, meaning to ensure justice, fairness, accountability and transparency when it comes to the operation of either the selection group or the firm that would be appointed to look at the candidates or the service commissions. How do you get it right to make sure that every decision that is made, and the persons who make them, could really be like Calpurnia's wife, as Shakespeare wrote, beyond suspicion?

I want to say quite openly this afternoon that I have always had a reservation with respect to the veto power being given to the Prime Minister of a country when it comes to the selection of certain offices. In this particular case, the section that deals with the veto power of the Prime Minister, more specifically, is section 123(3).

However, that was my initial view many years ago and up to quite recently. When I began discussing this matter with persons whose opinions I respect and who understand that independence does not mean forced consensus—what this means is that we have to agree to disagree. Let it be so, but let us make sure that our disagreement is not based on personality issues or egos, but on just perhaps two different approaches or two different principles, but principles based on the basic concepts of what is deemed to be right.

In other words, I heard the justifications. One which I understand quite clearly about this veto power is that the Prime Minister is ultimately responsible for the good governance of the country. There is a massive problem with crime in Trinidad and Tobago. The crime situation has not been unabated. I respectfully say this afternoon that it has, in fact, gotten worse, and I am relying on the statistics. When the murder rate for the same period last year was compared to this year's murder rate, there were more murders than last year. The Prime Minister is not the Minister of National Security, but he is the head of he National Security Council and, in my respectful view, at the end of the day, he has to take the responsibility.

There is a principle which I abide by which is this: If a man, which includes woman, has to take a responsibility then you have to give him the tools that he

needs. [*Desk thumping*] It is for that reason that when one is choosing persons or selecting persons or electing persons, one has to get it right.

In Trinidad and Tobago, all of us who have studied law and politics, when we did constitutional law, we had to go into a philosophical debate as to whether in the Caribbean you could really have the separation of powers, because in a small society there is always a challenge. There is a challenge that when you walk into a courtroom a judge may know a litigant; there is a challenge when you walk into any place, in a professional capacity, you may know someone. That is why persons have to ensure—I am going to say it ad nauseam that professional integrity has to reign supreme. [*Desk thumping*] Whenever somebody is operating in an office, whatever is the political affiliation or whatever is the religious persuasion, one has to know that is not going to compromise the operation or the functioning of that person.

So the veto power is something that I have always been uncomfortable with. I always felt that the Prime Minister of a country being given—when I say a prime minister—I want to encourage my colleagues and they could dismiss me as some of them have already done; it is not a problem—we think of personality rather than looking at the legislation in principle. In other words, when we say "prime minister" we should not be thinking of Mr. Manning or the former prime ministers like Mr. Panday, Mr. Robinson or the late Dr. Eric Williams; we must be looking at the office.

I know that there are many persons who disagreed when I articulated the point quite recently with respect to the pay hikes, but we have to stop using this childish approach. It should not be that because we may not like a person who is in office that the person should not be given anything. It takes us nowhere. The point is, at the end of the day, if you are changing from one formula that you are uncomfortable with to another formula it must be an upgrade. It must be superior. [*Desk thumping*] I am saying, quite openly this afternoon that I do not think that this is superior, and I am going to say why.

Mr. Manning: I was waiting to hear the Member for Pointe-a-Pierre make that point. Let me ask the Member a question. Would you now agree that attempts by the Government to hold on to the veto power of the Prime Minister were based on considerations other than the Prime Minister's ego? Would you now agree?

Miss. G. Lucky: Mr. Speaker, if I may, I would like to advise myself the same way as I do in a courtroom. I cannot go into the mind of someone and speculate; I do not want to go into the realm of speculation. So I advise myself. I

do not want to go with respect to hearsay because that too makes views inadmissible. What I would say is—I would like if I could be informed this afternoon, because this is something that has been suggested.

I really do not understand why we are leaving out the Senate. I do not know why. Even when the Member for Couva North was talking, I listened carefully. I also listened to the Member for Siparia and the Member for St. Joseph. When a contribution is being made, my point is, we are here to carry on a constructive debate, whatever the issue may be. We would disagree in another place or on certain principles, but one must listen. [*Desk thumping*] Do not just turn a deaf ear. That is not polite; it is not courteous; and it is not right.

It was interesting that in all the contributions you heard the use of the word "Parliament". In fact, I remember making a little note that this formula was going to ensure that all Members of Parliament would have a say. With due respect, Member of Parliament for San Fernando East, "elected Members" was not used. I made a note right here as I do in the courtroom from time to time. I am not going into what was said. I know what I wrote. In any event, I think that the correct approach is to say all Members of Parliament. I am going to tell you why. Sometimes, I too, fall in error.

In our country, lay people tend to think that Parliament is just the Lower House. I remember when the business community—I pointed it out and, perhaps other persons did—had their initial advertisements they were calling on the 36 Members of Parliament. I indicated that was an error, because there are not 36 Members of Parliament. There are 36 elected Members in the Lower House of Representatives. If the Speaker is not chosen from one of the 36 Members; the Speaker also belongs to the House of Representatives. The advertisement was amended.

Mr. Speaker, I was not privy to the discussion, but the hon. Member for San Fernando East indicated in his presentation that he wanted this debate to be fair, free and frank. I am just making the suggestion because the Member for Diego Martin Central said that we could discuss the principles and then get down to the nitty-gritty and specifics when we go to the committee stage. I feel it should be the affirmative resolution, not of the House of Representatives, but rather of the Parliament.

As I understand it, the Senate was always meant to be that higher body of check and balance. Unless a reason can be put forward that justifies the exclusion, I believe the thinking and the principle should be for inclusion. If we are going to

touch our Constitution, I believe that we should not be doing it in an ad hoc way. We are going with this new formula and let us get the formula as best as we can.

In the Interpretation Act, section 75(5) says:

> "The expression 'subject to affirmative resolution of Parliament', when used in relation to any statutory instruments or statutory documents, means that those instruments or documents shall not come into operation unless and until affirmed by a resolution of each House of Parliament."

I am just making the point that our Interpretation Act does recognize the phraseology "subject to affirmative resolution of Parliament". It also recognizes in section 75(7) by virtue of the same section, "subject to negative resolution of Parliament" and it also talks about "subject to affirmative resolution of the House of Representatives". I do not want the point to be carried away. I am saying that the phraseology is wrong. It has a meaning. I am asking, again, very respectfully, if there was any reason for excluding the Senate. If there was a reason for excluding the Senate, I would like to know what it is, and to see whether there is some good reason. If there is no such reason, may I respectfully suggest that consideration be given to amending that subsection that I am referring to and put instead "subject to affirmative resolution of Parliament". Let the Senators have a say—Senators who have been chosen and elected by the Government, the Opposition and the Independent Senators.

I do understand the point that was raised by the Member for St. Joseph. I am quite sure the Member for San Fernando East appreciated it. The Member for Siparia was making the point that when you are in the kitchen be prepared to stand the heat. You cannot afford to say that you want to play mas' and you fraid powder. At the same time, one has to recognize that politicians, fortunately or unfortunately, are put into a separate category of persons. One expects that when you are a politician you are going to have your name bandied about the place; you are going to be kicked around; and people from all walks of life are going to say the worst things about you.

The point the Member for St. Joseph was making was acknowledged by the hon. Prime Minister. There are some persons who do not want to get carried away with the politics of things. They are saying, listen, I want to make my contribution, but I do not want to get involved in the politics and then go into what politics is and how horrible it is. More so than now, there seems to be a plethora of examples as to why one should stay away from politics.

There are groups like the Keith Noel 136 Committee which is a group I think has really done a lot by letting people be aware of what can be done when people get together. Persons who are leading that committee have said: "Look, we want to stay out of the politics." Therefore, one wants to ensure that whatever system is used that people do not just have their names brought to the Parliament. I am not saying that we have it now. I am not going there. They are going with parliamentary privileges and so forth—they may have their names knocked all over the place, but I do not believe that they are cowards. I do not think it is necessary because they are afraid to be scrutinized, but they know that rules have been lowered. In fact, some persons went on to say that politics has a morality of its own and there are no parameters whatsoever, but I want to be fair to those persons.

I know that one cannot go as far as what was suggested which is, you cannot hand it over to a joint select committee. I am going to say joint select committee, because I really believe the Senate ought to be involved. I agree that you just cannot tell the joint select committee to look into a particular matter and make a decision as to who should be chosen and bring the name and there would be no debate. I do not think it should go that far because it really runs afoul of the rule. At the end of the day, the Parliament must be able to have its say. There are certain committees—I do not want to go into the details of one specific committee where it was important to have that debate brought here for persons to defend their positions, otherwise the wrong impression would have been made in the public domain. There is still a lot to be said on that, but that would not come now; maybe it might be the subject of some bestseller. I do not know.

Mr. Speaker, the simple point I am making is that if we are going with the upgrade, let us go with an upgrade that would ensure that we get the maximum participation of the Parliament. I did not have anybody interrupt me on the point of the Senate. I am just asking if there is some reason the Senate was left out. I am literally begging for an explanation. If you do have an explanation, I would give way. I want to know if I should then reconsider my position. I would be the first to say that they should be left out. Remember my suggestion is to include them, if there was a reason for exclusion.

Mr. Manning: What we are trying to put in place is an oversight arrangement. We are removing prime ministerial veto to put something in place. In fact, it is an audit arrangement. It suffers from the disadvantage of exposing the person involved to the cut and thrust of the debate in Parliament. If that happens in the Lower House, to now go and expose the person to a similar process in the Upper

House, is to be twice blessed, if you want to call it that. In other words, is to do it twice and to double the potential exposure which we have acknowledged suffers from the major disability of exposing an individual to unfair criticism in circumstances where an individual may not be able to defend himself or herself, and may not be prepared to be exposed to that kind of scrutiny.

Miss G. Lucky: Mr. Speaker, I just want to say to the Member for San Fernando East—I am saying this with the greatest respect—that having heard the explanation, I remain fortified in my view. I agree that if your name is going to be bandied about the place and it is in the House of Representatives, why subject a person to the other place. You know, when you face the first kick and you get the first slap, somehow when the others come it does not have the same impact as before. I am going to explain what I mean. I am not going to compare who has gotten more kicks or less. It has always been thought that the Senate is deemed to be the more dignified place.

Mrs. Robinson-Regis: Not this Senate.

Miss G. Lucky: I am saying that we are not going into what is the actual. That is why I said it. I am very cautious when I speak. I am saying that we have Independent Senators, Government Senators and Opposition Senators and, at the end of the day, I do not see why we should exclude them. That is my view.

Mr. Manning: That is overkill.

Miss G. Lucky: There is no overkill because you might get a perspective coming from Independent Senators. Let us face it, that in the Senate we have Government and Opposition Senators, and they may not be in sync as to what is in the law. I think that Independent Senators need a voice also. I am going to move on from that point. I am stating what my case is. I would just go back and say that if we are changing the veto power, I believe it is something that we have to make sure that we get an upgrade. That is my position on it.

If I may now go straight into the Order, it may seem to be a trifle point but, again, if we are going to demand that persons have a certain qualification, we must make sure that what we put in writing, does not only make sense but is something that encompasses what is happening in the real world.

Mr. Speaker, I want to draw the attention of the House to the Order. It says:

> "A candidate for the office of Commissioner of Police or Deputy Commissioner of Police shall have—

(a) a degree from a university recognized by the Accreditation Council of Trinidad and Tobago in any of the following:

(i) law;

(ii) criminal justice;

(iii) criminology; or

(iv) police service management…"

Mr. Speaker, I have just used the opportunity to check four universities, one being the University of London. I recognized there is a degree called "a degree in law". I know that one could get his or her masters degree in criminology, but whether there is something called "criminal justice"—you have used the phraseology. I am really now into the pedantics of the phraseology "a degree in". There is no degree called "police service management", but there are courses or degrees that you could study for in which that would be an important component.

Presently, there is a very popular degree coming out of the University of London called "management with law" and "law with management". We live in the world of double degrees. So a student pursuing management with law, for example, would do law components but would also do management. I think one should be healthily ambitious and not have ambition that leaps for itself like Macbeth. If, therefore, a police officer wants to qualify himself or herself I think, with the greatest respect, a degree in law is just not enough because you are doing management. That is the way they are going. There was a management degree offered at the University of the West Indies and many persons did industrial management.

There is recognition where doctors are studying law and lawyers are studying for MBA because that is the way the world is going. The management component is so important. My respectful suggestion is that we should get it right in the Order.

If persons are adamant—in fact, I did make a suggestion the last time with respect to the Bail (Amdt.) Bill as it relates to kidnapping. I pointed out a glaring omission to include kidnapping as one of the serious offences for which the three-strike rule would apply and the Government agreed and others did not agree. I am saying that if we are going to ask somebody to have certain qualifications, let us make sure that we get it right because it insults us.

Again, my suggestion is—Member for Diego Martin Central, I know your view is that we would do it at the committee stage, but I am just making a

suggestion. If it is felt that law, criminal justice, criminology or police service management—I am not saying that there are no degrees in the last three—but we should include our phrasing such as this—leave "(i), (ii), (iii) and (iv)" and put "or any other related or similar field or study".

Mr. Manning: I agree.

Miss G. Lucky: With the greatest respect, the last time you all agreed, but we had problems from the other side. Mr. Speaker, there is something that is really close to my heart. When I say heart, I want to say the pun is intended, but with the greatest respect, Member for San Fernando East, you made certain comments about integrity. Integrity has been the subject of much public discussion. I know you were absent when I made my contribution on the point, but I felt that it would have caused controversy, not that you fear controversy. I still say that we have to agree to disagree. Member for San Fernando East, I felt that in that healthy disagreement that we had, I must be able to respectfully say if I feel something ought not to be said, without being disrespectful to office.

In the Order it says:

> "A candidate for the post of Commissioner of Police or Deputy Commissioner of Police shall meet the following criteria:"

Clause 3(f) in the Order says:

> "integrity, having the courage of his convictions and known among his peers for doing the right thing regardless of consequence to self and others."

I am going to tell you why I have a problem with that. It is not the word "integrity". I love that word. I would like to enhance it with "professional integrity", but there is where you would get the problem. As lawyers, for example, in cross-examination you have to know when to stop. Sometimes in going on and on you end up destroying everything that might have gotten out in cross-examination. If you had just stopped with "integrity" or "professional integrity" it must mean something. You see, when you go on to say—I am saying it openly—"having the courage of his convictions", that is okay, but "known among his peers for doing the right thing" I want to ask: What is meant by "the right thing"? I am saying that what is one man's right thing is not another man's right thing.

I was reading a very interesting account of Hitler, a man whom people despise and, rightly so, one could say the worst things about him but, you know, Hitler,

like some people—some Germans to this day believe that Hitler did the right thing. I know that for any reasonable, just, fair and honest society—I see the Member for Tobago East is smiling. Understand me that some people believe that was right. Some people believe that when you sit on a committee, you must sign blindly away. That is what some people feel is right. I keep making the point.

Mr. Speaker, let us not go to what is ridiculous, but, what if—"among his peers for doing the right"—a criminal is a person who has been committing offences and somehow he keeps escaping the system on technicalities. There are witnesses who are not coming forward because they are afraid they would get shot. Let us say, "among his peers" a dead squad execution may be deemed to be right. You cannot get him that way, so you might as well get rid of him—the end justifying the means. Some people may deem that is right.

My respectful suggestion might be dismissed, but let the *Hansard* record it. It is in the Order in clause 3(f). It is either you leave the word "integrity" and let it stop there, or put "professional integrity" and let it stop there, or after the words "doing the right thing" include the words "in the name of justice and fairness". People cannot disseminate that word "justice". However you try to justify Hitler, those who would want to, they cannot say killing millions of people—Jews, Gypsies and others—could ever be justice. They cannot. I am suggesting that if you are putting in "integrity", that is my suggestion. Anything I say, Mr. Speaker, I recognize that it may be dismissed—although I must say that there was disagreement with respect to something I suggested a little earlier, I am just saying that it is my duty to say it.

Mr. Speaker, there is something else that concerns me very much and I am going to tell you what I think, but I want to leave that for last and that is the selection process is a nightmare. That is how I labelled it. I have done it in the form of a diagram and it is really ridiculous, in my view, to go this route. The point I want to make has to do with clause 64 of the Police Service Bill.

I have said it over and over that I am not going to go into the merits and demerits, because I have said this in debates and persons on the other side heard me say it and that is we need to move away from police officers being prosecutors in the courtrooms. I have gone so far as to say that I know there are many police officers who prosecute in the Magistrates' Court, who show great skills and knowledge. However, if you practise in the Magistrates' Court when a no case submission is made and when legal issues have to be determined, police prosecutors who do not have ready access to the Archbold on criminal law and Blackstone on criminal justice and pleadings or the laws of Trinidad and Tobago,

have to send the matter to the office of the Director of Public Prosecutions and a state counsel has to be assigned and make himself or herself privy to the facts, and read the notes of evidence because the counsel is coming in at midstream. They have to make the submission and if it is overruled and the case continues, the file then has to go all the way back to the police.

Mr. Speaker, in the United Kingdom, they have moved away from that system. I feel there would be a practical problem because some matters are in progress which is part-heard and, secondly, the Office of the Director of Public Prosecutions continues to be understaffed. The office needs more resources and personnel. So that merely to state to remove it, to me, is turning a blind eye to the reality as to how would the workload be dealt with. This is the suggestion that I am making.

The Member for San Fernando East said that if there is to be a change there should be an upgrade. I am recognizing that clause 64 is what exists now in the Police Service Act. I would really be more comfortable if we could show a movement towards ensuring that our police officers who are prosecutors—is either we are moving away from that system as the United Kingdom did—I have made suggestions before that those who are interested should arrange to go on sabbatical.

The Government is giving free education now for local tuition. There should even be a system when they are qualified and if they go to the Hugh Wooding Law School and so forth and get the equivalent, when they return there should be mandatory service in the police service as an attorney at law. I do not want any police prosecutor to suggest that I am saying that they should just be thrown aside, no. In clause 64, I am suggesting that it should not be left as "any police officer". That would include an officer who is just a constable. Put in some kind of proviso and my suggestion is "any police officer not below the rank of Sergeant".

In any event, in the Police Service Act, there are certain powers that are given, not to any and every police officer. I know that there are general powers, but when one is going with specific powers there is usually some kind of benchmark. I am suggesting that ought to be done. That in fact is the practice. If we are dealing with legislation and we are going to put in new sections, I am saying let us not just leave it to practice, but let history show that in the legislation we tried our best to get it right when we should have gotten it right. It is a suggestion. I really think that it goes in the right direction, and we do not have to look overnight for prosecutors, which is going to be a problem. It does not mean that

we are discarding police officers who are doing a good job prosecuting; we are only encouraging them to go and get their degrees in law and LECs, but put in that proviso.

Mr. Speaker, believe it or not, my final point which I hope I could really deal with very quickly is this nightmare which is best understood when you break it down into a diagram form, and that is the selection process. I heard the Member for St. Joseph make the point about that system being a nightmare, but some people could live through a nightmare and some people still have to live through political nightmares, but this nightmare is going to lead to injustice and it may be the subject of judicial review, and I just want to show why.

Mr. Speaker, I am going to try to move as quickly as I can. There is the Police Service Commission with a chairman and four other members. All applications for the post of commissioner of police and deputy commissioner of police would be sent to three committees each comprising 17 persons. So, immediately, you have to find 51 persons. When I first read it, I thought the 17 persons would be divided among the three committees, although I know that 17 divided by three is not a flush number. So, you are looking for 51 persons. Some people may even argue that you cannot even find 41 good persons to represent constituencies, but you could get 51 persons for the selection committees. Each committee of 17 would be getting all the applications and they are mandated to find eight persons. The commission would then be receiving from each selection committee—the maximum that the Police Service Commission would receive is 24 persons, because each selection committee is going to choose eight, so the minimum would be eight persons. Let us say each selection committee chose the same eight persons, the nightmare does not start there.

The commission having received what would either be 8 or 24 names, giving lower end and higher end, would then have to prepare a list of 10 names and the 10 names would be going to a firm and the firm would then choose five persons. Those five persons would have to go to the selection groups, again, and the commission would then get a ranking of three and the commission would choose the top one. Mr. Speaker, this is what I am worried about.

I ask the Member for San Fernando East to just bear with me on this point. I just want it to be understood. What if selection group one, in putting forward the initial eight names for that group, never selected or found good, one or any of the persons coming back from the firm? What if the firm sends back five persons and the committee gets it and says: “My gosh this selection committee says that we

never even considered any of these five because we found A, B, C. D and E." What you have is a selection committee actually getting back names that they may have discarded.

Mr. Speaker, with the greatest respect, you know, sometimes it is said that two heads are better than one. That may be applying in the politics now where you do not even know who are leaders but, in this case, you have a problem where you have three select committees and what actually happens is that for the select committees to get to the 51 persons which is mandated here, you might actually have some watered down committees—no disrespect, but you would get that.

Mr. Speaker, we have to start having faith in systems. We lose faith in people and that is why we lose faith in systems. We believe that if you give a person power that person is going to be like that leviathan monster and he or she would have to prove beyond a reasonable doubt that a man's life is short, nasty and brutish, and absolute power would corrupt it. That is the thinking. So nobody in any position or power is going to get it right.

I am just saying that the three select committees—now some people would say that is great and there is more democracy, but it does not necessarily mean more democracy, but more confusion. That is why the proverb says: two heads are better than one. There is also another proverb that says too many cooks spoil the broth. [*Desk thumping*] For every proverb you have saying one thing there is another one warning you about it. I have often made that point.

I could understand that if there was one select committee—I am still against the select committee because I believe that if you put persons on a commission they must be the best people; they must be fair; they must be independent; they must have professional integrity and they must know that whoever they are choosing, at the end of the day, would be the right person.

If you want check and balance for the commission which is meant to be the compromise, why three select committees? At the end of the day, you may engage consultants who may dismiss the people that I have put forward. That is something one has to be cautious about. So, a person may have been doing very well as an applicant. Selection group one would have put that person as No 1. Imagine, based on a nightmare of a process, you never even made it back and you topped in one group. That cannot be right. Jump high or jump low, we have to make sure that the persons who are coming forward are treated fairly and justly. Where are you going to get 51 persons from? People are complaining that you cannot even get four or five persons for a commission, but 51 persons have to come forward and also a firm.

Mr. Speaker, you see, it is very easy to say that this is democracy and this is ensuring maximum participation, but maximum participation is always something that is desired. Sometimes you have to make sure that in the whole context of a contract, if you get persons and delegate a function to them, you have to make sure that you delegate it to the right people. The service commission is being given a duty. One has to make sure that they do their duty as best as they can.

Mr. Speaker, from the outset, I indicated that there were just a few points that I wanted to raise and these are, in fact, the few points. In conclusion, the Government has to address the lack of proper police stations; lack of resources; Magistrates' Court, especially in San Fernando and Chaguanas and in many other jurisdictions. All these issues have to be addressed. Purchasing blimps would not solve problems and passing legislation alone does not solve problems.

Mr. Speaker, I am asking for meaningful consideration to be given to the points that I have raised. If they were considered and dismissed, at least, let us know that they were considered.

Mr. Speaker, on this note, I thank you. [*Desk thumping*]

Mr. Speaker: Hon Members, the sitting of the House is suspended for tea and we will resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. Speaker: Before I call the hon. Member for St. Augustine. May I just remind both the Leader of the House and the Acting Chief Whip that 5 o'clock is 5 o'clock, and not three minutes after five.

Mr. Winston Dookeran (*St. Augustine*): Thank you, Mr. Speaker. I would like to take this opportunity to make a very short contribution on this very important debate. I think, first of all we must acknowledge that the debate is taking place in the context of development of cooperation between the Government and the Opposition on a very key issue that the country is facing and that is the issue of crime. What we are dealing with are the lives of people and we are also dealing with the consequences of the inability of our authorities to get crime under control.

Within the last week we have seen further evidence of this problem in the society, the recent newspapers say it all. The headline in one of the newspapers a few days ago: "Murder all over". Secondly, police solving fewer murders. Thirdly, on today's newspapers the headline: "Four killed in 12 hours". Many of these people who are now the ultimate victims of crime are indeed the result of the fact that we are

today managing a system which cannot provide security for our citizens, and I do not want us to lose the focus of this debate. I believe the Prime Minister in introducing the Bills before us, said that it was dealing with the security of our citizens. I think it is encouraging that we were able to come together in order to deal with this issue, for it raises an issue of how do we handle issues in a bipartisan way that affects the vital interest of the people's lives of our country. This I hope, could provide the beginnings of the evolvement of our political culture that would allow us as parliamentarians to rise above narrow political interest and to discharge our responsibility in the name of the people of this land especially on issues like the lives of our citizens. That is what is at stake, and in so doing we stumbled into a number of new directions. I think it is in the very act of the dialogue that we stumbled into some new directions.

The first aspect of that, and I just want to mention it: How do we manage the social and political tensions in the country in a matter affecting life itself? The very debate we had here today on the method for selecting the police commissioner, and the police commissioners are members of the Police Service Commission is because there is no confidence in how we manage our social and political tensions, in a matter as critical as to the value of life. The fact that we had to spend so much time, both here and before, to try to find an appropriate formula that would be able to win the confidence of the wider society, is but simply a reflection of the fact that we are not managing our social and political tensions effectively. There is now so much distrust; so much feeling of conspiracy, so much feeling that the criteria of the fairness and impartiality and the criteria that we normally expect in a normal society may not be applied.

I just want to bring this to the attention of the Prime Minister as well, for underlying this is that fundamental problem and to that extent, my own public utterances for evolving a new sense of confidence in the way we manage our politics is underlined by the fact that we have had to spend so many months and so many years discussing the fundamental issue, during which time hundreds and hundreds of people have had to pay the ultimate price. I do not think we should congratulate ourselves too prematurely, for we are in fact, delinquent in the pace in which we deal with issues affecting the lives of the people and so many hundreds of them have had to pay the ultimate price.

In the last week we have been traumatized by what is taking place once more in this land. I say that because I think there is a sense among us, that there is some kind of victory to be achieved. It is in fact a commentary on our system that it has taken us six years, and more recently four or five months to arrive at a very

fundamental issue as to how to select your police commissioner. I say that because I think in the context of what we are about, there is much more that is at stake. I say that also, because it took the initiative of some of us to try to encourage that debate. Perhaps we should learn from that experience and find a mechanism that would prevent us from having to take all this time to make such a simple decision, and to pay the ultimate price of the lives of our people. Admittedly, legislation we all know is not the only problem.

There are two aspects of the legislation that my colleagues, the Member for St. Joseph and the Member for Pointe-a-Pierre, commented on, and I would just like to clarify those two positions. One is with respect to the selection order, which is part of the package before us. But my understanding is that that is not before the Legislature at this point in time. The two selection orders that are in the package, while they do have a formula, that is not only cumbersome, but it is a bureaucratic nightmare—and I agree with the points raised by both the Member for Pointe-a-Pierre and the Member for St. Joseph—indeed, it is really practical in our deliberations. We had mentioned this to the Government and these were to be changed, especially in light of the fact that we found a formula, post selection, to have parliamentary scrutiny, and what was being proposed in that order was based on the assumption that there would be no parliamentary scrutiny. Therefore, the scrutiny was going to be done in the selection process. It is no longer, in my view, necessary to have such a cumbersome, bureaucratic nightmare process, and I believe that the Government is going to undertake the revision of those orders.

There are also the regulations which we had discussed, which are not before us, in which we also identified a number of anachronistic regulations that are preventing the management of the system which is not before us. I just raised that for the sake of the debate that is taking place. The issue as to whether or not the access to parliamentary scrutiny might lead to abuse of personal liberties and personal reputations, so to speak, was raised also.

Mr. Speaker, I would like to emphasize the point that it is a fundamental departure in two ways. The President in the discharge of his function really is not accountable in the system to any incentive to ensure that consultation takes place in a meaningful sense. One of the problems we have been facing is that consultation for the appointment that is within the authority of the President has been done in a manner that has not inspired that confidence. One of the reasons for that is that the President himself is not forced by an incentive system that forces him to have consultation that would build the consensus, and in so doing, be able to advance the cause of managing the social and political tensions in the

country, because more often than not, the President's prerogative is relegated to those independent office holders, which really ought to be above local political considerations. So, the main objective of this scrutiny is to be able to provide an incentive and to be able to provide a check to force the consultation procedure to arrive at a consensus, or at least provide an incentive for that.

Secondly, it is also to provide the force of public opinion. In addition to the incentive, it would provide to the President to find a common ground that is acceptable to the Prime Minister and the Leader of the Opposition. It also brings into play the force of public opinion, which now does not necessarily have to come into play in the determination of the decision, although it would always come into play after the decision is taken. So the force of public opinion is an important one, and the best representative of the force of public opinion in our system is the Parliament itself and the elected Members of Parliament. [*Desk thumping*]

Those are the two underlying reasons for this new innovation, which introduces the whole issue of parliamentary scrutiny of major decisions that will be made by the Office of the President and whoever is in charge of that office, in the context of building confidence for social and political tensions which we are dealing with in this country. I think that is the philosophical underpinnings upon which that has happened, and it perhaps provides a point of departure which we may use in the further evolvement of our political system. I hope when we get around to discussing what the parallel track on constitution reform is, we do so on the basis of some of the fundamental principles that would be able to manage political and social tensions in the context of this particular proposal. So, Mr. Speaker, there were some bigger issues that have emerged out of these discussions.

Now, in the context of the problem that we are faced with, there are not only those who have lost their lives, but there are those who are victims, and there are so many victims in the country today that we can no longer assume that that is a very small population. We know that there are many measures that would have to be taken in order to deal with the issue of management, but we know that what has happened so far is a lot of public relations that has taken place on this issue of crime.

We still need to know from the Government what really are the results of all that work that is being done by the learned professor on the management issue. We still need to know what precisely are the FBI and Scotland Yard doing, if anything at all, that is to be placed in the public domain. And we still need to

know exactly how the police service will be reformed in the immediate future. Those are issues that have been addressed by symbolic measures like the "Eyes-in-the-sky" and "Blimps in the sky" and so forth. But there is not confidence building that the system we have put into place in fact is dealing with the fundamental issue. I hope that the Minister of National Security would, in a confidence-building exercise, be able to stay away from the tendencies to use public relations solutions to the problems of life in this country, which is what we are talking about. In that sense I know that that would become issues that we in the Opposition would be looking at very closely.

There is no doubt that the legislative agenda must be part of a holistic agenda, which must look in more depth as to the forces that are generating the crime. Although we have had a lot of talk about that, we have not seen any serious programme to deal with this problem in terms of the causes of the crime and the impact of the crime, other than the use of public expenditure. I have expressed here and directly to the hon. Minister of National Security of a programme that must be employed in this particular area, and I do not think that we can wait to see so many hundreds and thousands of our people being affected; some of them directly and some of them not directly.

In that context, Mr. Speaker, I want to take this opportunity in this debate to focus for a few moments on the rebalancing of the criminal justice system in favour of the victim. Our system is now not friendly towards the victim—the judicial system as a whole. And now that victims are a permanent constituency, not only those who are directly affected by crime, but the family and the friends, and we all in our own jurisdictions as Members of Parliament have come into contact with such people on a continuous basis, but our judicial system itself, is not in favour of the victims. In most jurisdictions which look at strategic interventions in crime, that is a particular focus. To do that we need in the first instance, to really get a handle on the size of the problem. I do not know whether the Government after four years in office, and after all these various plans, can stand here and tell me what is the size of the victim constituency in Trinidad and Tobago as a result of crime. Perhaps it is the entire country, but even to have a handle on the size of the problem is important, and we know that we can do appropriate measures of that.

Is the problem really being dealt with in a systematic way and are we therefore trying to deal with this issue of the victims? The victims, as we know,

have in fact been abused sometimes. The Government in its public relations campaign has referred to them—particularly with respect to traumatized kidnapped victims and their families—as "family affairs" and has led people to believe that much of that is family affairs. We heard the Prime Minister speak earlier about human lives and traumatized families of murder victims and the equally traumatized families and dismissed them as collateral damage. We saw, for instance, the insensitivity of the people of the country reflecting their dismay and their outrage when the Government does not take part in the crime marches officially in the country, which is doing some disregard and insensitivity to the people's plight. The Keith Noel Committee has done a tremendous amount of work in sensitizing not only the population, but sensitizing even this debate. And to some extent, it is the public pressure, the public opinion to which today we have returned to protect us against improper use of high office and which in fact helped us to force this collaboration between the Government and the Opposition.

So I am saying that this kind of callous response to the issues of crime can no longer be accepted in this land. We must now demand the Government to have concrete answers, concrete approaches to dealing with real issues of life and death; and that we could no longer afford. Now that we have gone through the legislative apparatus, that should not have prevented the other things from taking place, but it is a matter that remains a matter of real concern. I hope that this debate does not take place without regard to the purpose of the debate, which is about the lives of people and victims.

It is frightening that witnesses to serious crimes are now routinely being made victims of crimes themselves, as targets of attempted murder and as murder victims themselves. So, we are in a serious problem; not only those who are losing their lives and those who are traumatized by it in the various forms—and we have been reading it—but even the victims. And in that sense we have to ask ourselves what really is happening for the victims of crime. In every civilized society that is taken as a major public concern. It is true that we have passed legislation for victims' compensation; that was passed by the United National Congress when it was in government. Since then, we are still to see any action in which that compensation, as limited as it is, was in fact enforced. I do not have the answer but I guess that no one has been compensated for any crime, in spite of the legislation that was passed some years ago.

There is also the issue as to the level of compensation. I know in our discussions we talked about that, and consideration is being given to change the level. But is there machinery in place to provide support to the victims? This is

the point I want to bring to the attention of this Parliament today, among the other issues. What are the measures that are in place to deal with the victims of crime? Legislation is perhaps not adequate and enforcement of that legislation is not so.

In that context, Mr. Speaker, when we look at crime prevention and crime reduction measures in other countries, we see that the issue of victims and dealing with the victims is in fact an important ingredient. The overriding principle in criminal justice plans in today's world, in which terrorism and crime have become a permanent feature of life, is to deliver criminal justice that puts the victim of crime and the law-abiding citizens first.

So, I am making the plea here, Mr. Speaker, that we must move quickly in order to put that system in place. In some societies they have set up what they call a code of justice; a code of justice to deal with the victims of crime, to provide protocol, to provide support and to provide the kind of humanitarian care that is required in this situation. Today our victims of crime are left to fend for themselves. There is no support system; no compensation system, no caring system that is in place, and therefore we cannot claim a victory here in dealing with the fundamental issue unless we deal with the human side of the victims of crime in this society today.

In that context I want to suggest that perhaps we work rather quickly on not only establishing a code of conduct; a code of practice for justice, dealing with victims of crime, but that it should serve many things. Mr. Speaker, there are provisions in other countries that have that kind of code of justice: provisions like making it a statutory right to high standards of treatment from criminal justice agencies; provisions like ensuring that their statutory rights are spelled out in a code of practice; conditions where victims are kept informed at regular stages about their case; provisions in which the Government would take decisive action to make sure that the composition of the criminal justice agencies more fairly represent the diverse community that these agencies serve, and a number of other provisions. But we have no such provision; we are still debating after six years the issue as to the compensation of victims' legislation; and we still have not come to an agreement on that.

I want to use this debate, Mr. Speaker, merely to emphasize to the Parliament and to the national community that we should now embark on a programme in order to develop a justice system in favour of the victim, and to provide all the necessary support, both for the victims and for the witness programme. But we are not doing that and therefore, what we have already lost by the time it is taking

this Parliament to make a simple decision as to how to appoint a police commissioner must no longer be lost for the benefit of the people of this country; for the benefit of the victims of crime; for the benefit of the witnesses, and a holistic programme should come up very quickly to deal with that.

For four years we have been hearing all these public relations gimmicks and we are not seeing the results of that. So, not only are we not dealing with the issue of crime in a management sense, although the legislation, it is claimed at one time was preventing the management from changing, obviously that has never been correct; we know that, the Government knew that, the legislation was never retarding that process, but notwithstanding that, we now have before us a legislative apparatus that can be enforced. So rebalancing the criminal justice system in favour of the victim is an important factor.

5.30 p.m.

I am asking the Government and I am asking the Minister who is responsible for that, to outline to the country a very detailed programme to rebalance the justice system in favour of the victims. There are now over 20,000 people, by my elementary calculation, who are currently victims of crime and they are left unattended. Though society can feel a sense of civilized comfort when we are not even addressing—we are certainly not addressing the problems of the comfort of the law-abiding citizens and we are not addressing the problems of the comfort of the victims of crime, which in many cases is as a result of the fact that we do not have a system to deal with the issue of crime.

So, I wanted to bring back this debate onto the central point; the central point is, that we are dealing with the lives of our people. We are dealing with our people who are being traumatized; we are dealing with our victims, and now, unfortunately, we have to accept that is likely to be growing. It is untenable for a civilized society and for this Parliament not to address that issue, and not to address that in a manner that would build confidence and, as I said earlier on, would be able to reduce the tensions of the management of society. Many of the problems we are facing in the society have been the result of that.

Mr. Speaker, it is in that context that I believe we should learn some lessons from this experience of the last three or four months. As we try to look at the lessons before us, the question of the accountability of the President, in terms of the consultation process for this particular issue and the use of public opinion to enforce that there would be good management of social and political tensions in the country. Those are the larger issues. But the most important issue is, also, how do we deal with all the other issues? But today, I wanted to concentrate on the

victims of crime, for they have now become a constituency that is significant and it is likely, that is not likely to go away in the short term. And notwithstanding the protestations of the Government one cannot feel that assurance, based on what has been happening and what we are reading every day in the newspaper.

If this society has to consider itself and the Government has to consider itself and the Parliament has to consider itself as taking a civilized approach to this problem, let us hear from the Government who is now responsible, has always been responsible, but now, has no scapegoat in dealing with the issue of crime in Trinidad and Tobago.

Thank you. [*Desk thumping*]

The Prime Minister and Minister of Finance (Hon. Patrick Manning): Thank you very much, Mr. Speaker. I would like to thank the hon. Members opposite who took the time to make a contribution to this debate, which brings to a culmination a historic process that started seven years ago—a process which would result in landmark legislation which would affect the way we do business in Trinidad and Tobago in the context of our assault on crime and, which as I said on a previous occasion, is the subject of observation by every English-speaking country in the Caribbean since the problems of crime experienced in Trinidad and Tobago, today, are by no means unique to Trinidad and Tobago, but are affecting, almost every country in the world, and particularly, countries within the region.

So, several of those countries had been looking to see what we do here in Trinidad and Tobago. They were intrigued by the approach in the very first place, and they were wondering whether, among other things, the political system in our country was mature enough and the politicians were mature enough to be able to sit around the table and discuss a critical matter of national importance and to come to a conclusion that is in the national interest.

Even though, Mr. Speaker, today, it has been seven years in the making, I still feel a sense of tremendous pride and gratification that we have come to this place. I am not saying that the solution is ideal. It is by no means ideal and, in fact, the debate that has just taken place has demonstrated that very amply. I am not saying that the legislation that is before us will bring an end to the crime situation tomorrow morning; that is not so. What, however, I am saying, is that we have come to a place where we are beginning to tackle one of the critical areas that impinge on the levels of security of the people of Trinidad and Tobago. That is the police service, how that police service is managed; how people are recruited into the police service; what methods of discipline would be used and what methods of promotion would be used in the police service.

We are confident that over time, and it would take some time, what would emerge out of all of this, is a far superior police service than what we have today—a police service that would properly qualify in the context of the charge of its responsibilities; the way its responsibilities are discharged, would properly qualify, to be dubbed as an agency that is delivering 2020 service to the people of Trinidad and Tobago.

Mr. Speaker, I am particularly grateful for the contributions of the hon. Member for Couva North; my good friend, the hon. Member for St. Augustine; the hon. Member for Siparia; the hon. Member for Pointe-a-Pierre and the hon. Member for St. Joseph, all of whom brought their own perspective to bear on the legislation, and it resulted, perhaps, on one of the few occasions in recent times in this honourable House in a debate, which even though it was relatively short, it was indeed, a debate in which you detected that those who contributed to it, were in fact searching for truth. That is what they were doing. And even though we know that we have a negotiated arrangement, even though we know that there is an agreement and that we are not going to deviate from that, it did not prevent us from dispassionately examining the matter. It did not prevent that at all; nor did it prevent us from expressing views in a frank manner, but in a manner, of course, that did no violence to any Member on either side, but was discussed in the spirit of Parliament, the spirit in which all matters in the Parliament should be discussed.

Mr. Speaker, I just want to add that one of the Bills before us is the Constitution (Amdt.) Bill, 2006. It seeks to amend the Constitution, to give effect to the things that we are discussing. We have agreed with hon. Members opposite on a process for the reform of the national Constitution—the Constitution of Trinidad and Tobago. I would just like to reassure hon. Members opposite that the PNM is doing its work in this regard. We are indeed doing our work in this regard.

I just want to draw attention, once again, to the legislation that is up for the public comment at this time, in terms of the reform of the local government system, containing as it does a very important provision that would revolutionize the way Government business is conducted in this country, and which, for us, constitutes, a very essential element of the process of reform of the Constitution of Trinidad and Tobago. I would urge them to have a look at it; it should not be allowed to pass unattended because it is fundamental to the system. That is the first thing.

Secondly, Mr. Speaker, we take note of the fact that a group of public-spirited citizens has recently published, or signified to the national community, the fact

that they have drafted a constitution for Trinidad and Tobago, which they would make available to the Prime Minister, and to His Excellency the President, and I hope, to every Member of Parliament in due course. Permit me to say that we on this side applaud the efforts of that group in drafting a Constitution, it does not mean to say that we would agree with what is in it; everything in it; or much of what is in it. We do not know, we have not yet seen it, but we could give you this assurance that we would examine that Constitution dispassionately and we would consider what it says, alongside the views that, we, ourselves, now hold.

I wish to reiterate that within our own political organization we have embarked on a process of consultation and at the end of day it is anticipated that we, too, would be able to crystallize our views and to use these views as a basis for discussion between the Government and hon. Members opposite, as we seek to take the process of constitution reform one step further, and as we seek to bring this matter to a head, and to put new constitutional arrangements in place that we believe will better regulate the conduct of business in Trinidad and Tobago.

Mr. Speaker, it is always difficult to set a time frame. This is the year 2006. In the normal course, all things being equal, a general election is due in the year 2007.

Hon. Member: It is in your back pocket.

Hon. P. Manning: We believe, that fundamental reform of the Constitution must take place in the next parliamentary term, and that is before the year 2012.

Mrs. Persad-Bissessar: Nah! After elections? No!

Mr. Ramnath: That is "ol' talk". Like you are leaving that job for us to do? [*Crosstalk*]

Hon. P. Manning: In fact, the one thing the PNM knows is that there can be no reform of the Constitution without the people of the country having a say in the matter. [*Interruption*] There can be no reform and therefore, Mr. Speaker, it is unlikely that the Constitution of Trinidad and Tobago can be reformed before the next general election. The people of the country must have their say, and therefore, whatever process we engage in, however we culminate our discussions on this matter it must have as an intervening event an election in which the people have their say on the matter and then we proceed to implement on the basis of the instructions that the people of Trinidad and Tobago gave to their elected representative.

May I assure the hon. Member for Couva South that the current Government of Trinidad and Tobago has no concern and no fear as to who would be given the authority to implement a new Constitution for Trinidad and Tobago. [*Desk thumping*]

It was the very distinguished Member for St. Augustine, who, did, as he put it, seek to bring the debate back to its core issues, which is the levels of security of the people of Trinidad and Tobago. He did make reference to a number of instruments that the Government has utilized within recent times to seek to achieve higher levels of security for our people. He talked about the airship; he talked about "eye-in-the-sky", and he suggested that these and other mechanisms being used by the Government are not having any effect.

Dr. Rowley: How he knows that?

Mrs. Persad-Bissessar: Because we have 75 murders in 75 days.

Hon. P. Manning: Mr. Speaker, with respect—

Dr. Rowley: What is the connection?

Hon. P. Manning:—the view of the Government is somewhat different. In fact, I am prepared to say that had it not been for the airship the kidnapping rate in this country would have been far higher than it is today. [*Opposition Members sigh*] [*Crosstalk*]

Hon. Member: No!

Hon. P. Manning: I am merely responding to what my colleague from St. Augustine said. [*Interruption*] Surely, I have not violated any Standing Order. [*Crosstalk*] And surely, the tolerance that has been demonstrated so far in this debate is not about to expire with the impatience of the very distinguished Member for Couva South, [*Laughter*] or for that matter the Member for Princes Town who is aware that his days might well be numbered in the context of new political arrangements on the other side. [*Laughter*] But I did not want to get into that. [*Interruption*] I did not wish to get into it, but do not provoke me. [*Crosstalk*] And I would continue to do well. [*Interruption*] Keep that boy quiet for me please; that gentleman; the hon. Member. I am sorry, Mr. Speaker. [*Laughter*] [*Crosstalk*]

Mr. Speaker, it was in December 2005 that we announced that we were going to the Federal Bureau of Investigation of the United States and to Scotland Yard in the United Kingdom for expertise to assist us in this fight against crime.

Mr. Speaker, I think it is well known that Members of the Federal Bureau of Investigation have been in Trinidad and Tobago from time to time, and as the circumstances warranted it, to look at particular issues that we believe could benefit from exposure to the expertise they possess and which they have used for some time in a developed country—the United States of America—and permit me to say we think that those arrangements are working reasonably well.

I am now in a position to advise this honourable House that we are now making final arrangements to receive in Trinidad and Tobago towards the end of the month of April, 39 officers from Scotland Yard. They would be here for a period of two to three years and they would be assigned to the Special Anti-crime Unit of Trinidad and Tobago (SAUTT).

With the passage of the legislation that is now before this House what it will now do, it will allow us to incorporate them into the police service and assign them to SAUTT, which means, that they will be precepted and they will have the authority to investigate, arrest and do the work that police officers normally do in any jurisdiction in which you have police officers. So that from that standpoint the legislation that is before the House will, with almost immediate effect, make a contribution to the effort that we are putting in place.

We look forward to their advent and to the work that they will do. While I am on that, may I also make a comment that the Special Anti-crime Unit which was set up about two years ago, and set up in particular circumstances is turning out to be one of the most forward-looking institutions that we have put in place in our fight against crime; it is turning out that way.

At this time there are about some 250 persons working for SAUTT.

Hon. Member: Where, URP?

Hon. P. Manning: They are not URP. Without wanting to go into the details of the issue because of the nature of what is involved, I would just like to reaffirm our commitment to that organization and to the process in which they are involved and to the efforts that they have now brought to bear on our crime situation. At the same time, the police service within recent times, has been doing quite well and I think it would not be proper of us in a debate of this nature not to publicly record that. [*Desk thumping*]

The police service has been doing quite well. There is clearly a new spirit in the police service; that is clear, you can see it, and that the number of roadblocks and the way police officers are going about their business have brought a measure of confidence back into the society. [*Interruption*] In fact, if the Carnival this year turned out to be as bumper a Carnival as it indeed was, with larger numbers of people participating, both from at home and abroad, it is because of the efforts of the law enforcement agencies—all of them. Those efforts are bearing some fruit.

Let me remind hon. Members that none of us could say—and if someone decides to shoot somebody else, I have little control over that. What we can do

[*Interruption*] is that we can ensure that wrongdoers are brought to justice, and by doing that, have it act as a deterrent to those who would be inclined towards wrongdoing. And that is the approach that we are taking. [*Interruption*] So be it!

You better believe that had the arrangements we now have in place not been in place it would have been far worse than it is today. [*Interruption*] And so, Mr. Speaker, we have come to the end of a very significant debate. At committee stage we will make some amendments to the legislation, such as have been identified by some of the speakers in their discussions; if the Government and the Opposition believe them to be necessary and we are able to agree on them.

There are some proposals that have been made that reflect a tidying up of what is before us and we would incorporate those. May I say that the orders are not before the House and that much of the debate has centered on the orders and the processes outlined in the order, especially for the selection of a Commissioner of Police.

It is clear that process has to be revised and we would revise that, but of course we would discuss with the Opposition, in the spirit in which we have been discussing these matters. We do not propose any unilateral action on any of these things.

So, Mr. Speaker, I would like to bring this debate to an end at this stage and to, once again, thank my colleagues opposite for their contributions. It has been a long road and it has taken us a long time, but at the end of the day, I think we ought to be proud of what we have been able to achieve.

I want, once again, to congratulate Sir Ellis Clarke and his team, to wish them well and to let them know that their work has not been in vain. I commend the Constitution (Amdt.) Bill, 2006, the Police Service Bill, 2006 and the Police Complaints Authority Bill, 2006 for the consideration and approbation of hon. Members.

Thank you very much. I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Speaker: Hon. Members, the sitting of this committee is suspended and will be resumed at 6.30 p.m.

5.57 p.m.: *Committee suspended.*

6.30 p.m.: *Committee resumed*

Clauses 1 to 3 ordered to stand part of the Bill.

Clause 4.

Question proposed, That clause 4 stand part of the Bill.

Mr. B. Panday: Mr. Chairman, clause 4 new subsection (3), that would be at the top of page 5. I suggested that the word "may" be changed to "shall".

Mr. Jeremie: We do not change "shall" with respect to the President.

Mr. B. Panday: I beg pardon.

Mr. Jeremie: By convention we use—

Mr. B. Panday: "The President shall, after consultation". The point I was making is that "may" is discretionary and "shall" is mandatory.

Mr. Jeremie: I know, but the convention is that you do not use "shall" with respect to the President.

Mrs. Persad-Bissessar: So what happens when you have "may" and he does not use it?

Mr. B. Panday: So what happens when he exercises his discretion and says I am not doing it?

Mr. Jeremie: Well—

Mr. Valley: Well, he pays the consequences because the provision of the clause is that it has to come to the Parliament and—

Mr. Jeremie: He may only do it in accordance with the—

Mr. B. Panday: No, no. Legislation is not for me and you only. Legislation is for all times until repeal.

Mr. Valley: What is the problem with "shall"?

Mrs. Persad-Bissessar: You know we have a lot of conventions that we really do not need. The President is not the queen.

Mr. Jeremie: You want to take the convention?

Mrs. Persad-Bissessar: We would not take the convention.

Mr. Jeremie: All right.

Mr. B. Panday: Because I do not see the point. No, no, not only that, you had "shall"—

Mr. Jeremie: With respect to the commission where we—

Mr. B. Panday: You had "shall" in the previous legislation, if I remember rightly.

Mr. Valley: Do not worry with it.

Mr. Jeremie: Okay, we agree.

Mr. Valley: If he feels he can live with "shall". "Shall" it shall be.

Mr. B. Panday: Listen and we would go and apologize to him.

Mr. Jeremie: Well, if you think it is necessary.

Mr. B. Panday: That is the only one I have, Mr. Chairman. [*Crosstalk and Interruption*] Mr. Chairman, section 37 says, "A President shall before entering upon the duties of his office …" and they have the President shall all the time.

Mr. Valley: "Shall" it shall be.

Mr. B. Panday: I just wanted to satisfy the dear lady that—

Mr. Yetming: Before we get to (4).

Mr. Valley: You do not want it in (4).

Mr. B. Panday: Yes.

Mr. Yetming: Are we still on (3)?

Mr. B. Panday: "The President shall issue a notice..."

Mr. Jeremie: It would remain "shall" right through.

Mr. Valley: Right through?

Mr. Jeremie: Yes.

Mrs. Persad-Bissessar: Yes.

Mr. Valley: You were making the point that in some cases "may", might be correct. For example, (4) and (5), I thought—You do not have a problem?

Mr. B. Panday: No, that is not the one. "May" in (6) is correct— "may in his own discretion", you see the point?

Mr. Jeremie: Yes, okay.

Mr. Yetming: We have moved on from (3), but I have made—

Mr. B. Panday: So, you have (3) [*Interruption*]

Mr. Yetming: I had made the point with respect to the qualifications under (3). Is any amendment being made there?

Mr. Jeremie: No.

Mr. Yetming: I had proposed human resource specialist or human resource management.

Mr. Valley: You know, management takes into consideration human resource. So if one is—

Mr. Yetming: Why put finance then? In the context of managing the police commissioner because that is what it is; hiring the police commissioner, assessing him and firing him; you are specifying certain skills.

Mr. Valley: But the point I am making, I am saying that management includes human resource management.

Mr. Yetming: Not necessarily. I am saying it is a human resource function. Why put in finance? I mean prior to now there were no special qualifications, so you are putting it in for the first time.

Mr. Jeremie: Well, that would be a change of policy; we would have to leave it as it is.

Mr. Yetming: Why are we leaving it as it is, let me hear that again?

Mr. Jeremie: Say again?

Mr. Valley: We are satisfied that management includes human resource management.

Mr. Yetming: No, I am not hearing you.

Mr. Valley: Because management—[*Interruption*] go ahead.

Mr. Jeremie: We think the form of words that we have would capture human resource management.

Mr. Yetming: But not necessarily. I mean, I am not going to make a fuss out of it. You know that you are changing the Constitution to specify special skills you want and I am saying, that the most important special skill for that commission is a human resource skill which you do not have, but you are putting skills like finance which really is not a necessary skill for the Police Commission.

Mrs. Persad-Bissessar: When you do management, human resource is subsumed in management; finance is not necessarily subsumed in management. You could be an accountant with no skills. You are a finance person and you have no skills in management. So that this was the policy in the issue here and we are happy with these words.

Mr. Chairman: The Leader of the Opposition has a problem with the word "Notification"?

Mr. B. Panday: Yes, well I thought you had gone back to (3).

Mr. Chairman: We are still on (3).

Mr. B. Panday: "Notification" is not in (3), Sir; “Notification” is in (4).

Mr. Chairman: Sorry, (4).

Mr. B. Panday: Are you ready for that one?

Mr. Chairman: Yes.

Mr. B. Panday: So, "The President may issue a Notification containing the names ...which shall be subject", "… Notification…shall be subject to affirmative resolution of the House of Representatives", that does not convey your intention because your intention is "he may appoint" what five? You may agree to four not one, two, three and so on. I am no expert, but there is a little formula that I had and maybe the dear lady, who is an expert in matter can—

Mr. Valley: I think (4) is being amended.

Mr. B. Panday: Okay. And in (5) the "may" should also be "shall".

Miss Lucky: Mr. Chairman, with respect to subsection (4), could I just ask the committee to consider the suggestion that was made, that the affirmative resolution, "instead of House of Representatives" that we change that to "Parliament". I know it is a significant change in the policy, but I would still ask for consideration to be given.

Mr. Jeremie: Well, this is something that we had hashed out together and we agreed that it would be the "House of Representatives". We looked at the Interpretation Act and we agreed that we would confine it to the House of Representatives.

Mr. Chairman: Hon. Members, (4) would be deferred to later on in the proceedings.

Mr. Valley: I am sorry. We have an issue with (4), but can we not look at (5) and (6) here? No, they are going to clause 5.

Mr. Chairman: The "shall" is going on in (3), (4) and (5).

Mr. Valley: Right, okay.

Mrs. Persad-Bissessar: Are we on 5?

Mr. B. Panday: No, we are on 4.

Mrs. Persad-Bissessar: Oh, I am sorry. You said we were deferring 4?

Mr. Valley: (4) yes.

Mr. Chairman: … we are proposing "shall" in subsection (3). [*Interruption*]

Mrs. Persad-Bissessar: [*Inaudible*] there with (6). Mr. Chairman, there is not a problem with (6). The Member for Couva North had made a suggestion that when you renumbered, that you are going to be ending up with a—

Mr. B. Panday: Not yet, we are on 5. Are we not, Sir?

Hon. Member: Yes.

Mr. B. Panday: Well, Sir, the only comment I have—

Mr. Chairman: No, no—

Mr. Valley: We are on 4(6).

Mr. B. Panday: No, you cannot be on subsection (6) because we did not finish (5).

Mr. Valley: Subsection (6) in Roman 4. In other words, 4(6).

Mrs. Persad-Bissessar: He said you have not finished subsection (5) as yet.

Mr. B. Panday: What about subclause (5)? You are using the wrong Act.

Mrs. Persad-Bissessar: Too many versions.

Mr. Valley: I thought you were finished with subsection (5).

Mr. Chairman: No, we are on clause 4.

Mr. B. Panday: No, we only said "may" but there is another thing. "The President may make appointments under this section only after the House of Representatives has approved the Notification." You are back to the problem of (4). So "Notification" has to—

Mr. Valley: That has to be amended also.

Mr. B. Panday: Yes. And I suggest nominees referred to in—

Mr. Valley: We have the amendment.

Mr. Chairman: So you want to defer subsections (4) and (5). So we come back to clause 4.

Mr. B. Panday: (6) is all right because “may” now here means something else.

Mr. Chairman: So we will come back to clause 4 later on.

Mr. Valley: But you were saying on (6) that there was a conflict between (6) here and the Constitution?

Mr. Panday: (b). The point I was making is that there is an old clause—that is in the original Constitution—of section 122(3) that says, "The Chairman of the Police Service Commission shall be either the Chairman or Deputy Chairman of the Police Service Commission." But here we are saying that:

> “The President may in his own discretion appoint a Chairman of the Police Service Commission from among its members”.

I am of the humble and respectful view that that is a conflict.

Mr. Jeremie: That is the subject of one of the amendments that we are doing.

Mr. Chairman: Therefore, we would defer clause 4 subsections (4), (5) and (6).

Mr. B. Panday: And if you repeal (3), you cannot renumber it (7).

Mr. Jeremie: We know.

Mr. Chairman: We have to come back to this whole clause.

Question put and agreed to.

Clause 4 deferred.

Clause 5.

Question proposed, that clause 5 stand part of the Bill.

Mrs. Persad-Bissessar: I have a slight problem with 5. If we go right down to subsection (3), which is on page 6. Sorry, subsection (2).

Mr. Chairman: Hon. Member, before you get there, clause 5, the "may" you want to change that or leave it as is? 122A(1): "The President…after consultation".

Mr. B. Panday: My view is that, that should remain as "may". I had not thought of it until you were pointing it out to me. Because here it is: "The President may, after consultation with the Prime Minister and Leader of the Opposition, terminate the appointment of a member of the Police Service Commission if the member is … "There is a whole discriminatory milieu there. Is not that so?

Mr. Valley: That is right. After the consultation he may decide that he does not want to fire you?

Mrs. Persad-Bissessar: That is right.

Mr. B. Panday: Exactly.

Mrs. Persad-Bissessar: Subsection (2). Sorry (3): "A member of the Public Service Commission may not be removed from office except in accordance with this section". However, we retained 126 and 126(5) says that: "A Member of a Service Commission may not be removed except in accordance …" with that section. So that the two are in conflict. 126(5) of the existing Constitution: "A member of a Service Commission may not be removed from office except in accordance with the provision of this section", meaning section 126. So you cannot have two exclusive sections.

Mr. B. Panday: No, no, it says: by inserting in the numbered section—

Mrs. Persad-Bissessar: No, it still does not matter—

Mr. B. Panday: You are not there yet?

Mrs. Persad-Bissessar: We have not changed 126 at all, so 126 remains in the Constitution.

Mr. B. Panday: Where are we?

Mrs. Persad-Bissessar: Subsection (3) on page 6. "A member of the Police Service Commission may not be removed from office except in accordance with this section." And this section is section 122A, but 126 says the same thing. So you would defer on that as well?

Mr. Valley: Yes.

Mrs. Persad-Bissessar: So that is clause 5 new subsection (3) deferred.

Mr. Chaiman: We would come back to clause 5.

Question put and agreed to.

Clause 5 deferred.

Clause 6.

Question proposed, That clause 6 *stand part of the Bill.*

Mr. B. Panday: Clause 6 refers to the repealing of section 123 and the substitution of section 123.(1) by 123.(1). I went over to the other side of the page to (e) and there it is saying that you are asking the commission to write a report on the Commissioner and Deputy Commissioner of Police and give it to them. That is what it seems to amount to me, if I may go back and read it continuously.

"The Police Service Commission shall have power to–

(e) prepare an annual performance appraisal report in such form as may be prescribed by the Police Service Commission respecting and for the information of the Commissioner and Deputy Commissioner of Police."

So they are asking the Police Service Commission to do a report on the Commissioner and Deputy Commissioner and give it to them: that is the point that I was making. And I would have thought that that should really be laid before Parliament for the reason that the President may, and after consultant decide to reappoint them. Surely if there is something in the report that the Commission has said about them that ought to be known to the Members of Parliament, so that it may influence their decision whether or not they have agreed to renew.

Mrs. Robinson-Regis: Mr. Chairman, if I may, in relation to that particular clause, the report that is to be prepared is an appraisal and consequently the person who is being appraised has to have sight of the report, that is in keeping with natural justice. So the person has to have sight of the report. Now in relation

to—and the normal procedure is that they would sign off on the report and so on, so there is nothing inherently wrong with this clause. Additionally, the Police Service Commission does prepare an annual report which would include issues of this nature and that report has to be laid before the Parliament. So there are two things here, because they are the ones who appoint the Commissioner and the Deputy, they must do the report.

Mr. B. Panday: That probably makes sense. It does say appraisal report.

Hon. Member: That is a human resource requirement.

Mrs. Persad-Bissessar: There is that word "Notification" again somewhere here.

Mr. B. Panday: In clause 6, yes, Sir. We just dealt with subsection (1); now subsection (2) which is on page 7.

> "Persons appointed under subsection (1)(a) or section 22(1) of the Police Service Act, 2006 shall be selected in accordance with such criteria as may be prescribed by Order of the President."

My observation, let me put it that way, why have different criteria for appointing people under contract as opposed to people who came through the ranks, because this apply to people under contract. 22(1) is appointment of the Commissioner of Police and deputies on contract. If you look at it, you would see that it is correct. [*Crosstalk*]

Mrs. Persad-Bissessar: They are both caught in the same net, if I am to understand, Attorney General? Both are caught in the same net because you have under subsection 1(a), which would mean whether they come on contract or whether they come through the ranks and then section 22(1) of the Police Service, those are the contract people. So I am asking to clarify that they are in fact caught in the same net whether they are on contract or not.

Mrs. Robinson-Regis: They are. Everybody would fall under the same criteria as I said, whether it is on contract or if they come through the ranks.

Mrs. Persad-Bissessar: Just to note because so much debate has taken place in this House, not from us, but from others with respect to the Order and we would just note for the record that on this side we had indicated that it was a bureaucratic nightmare and that Government did undertake that they would look

at that Order again. That Order came very early in the day before we formulated the mechanisms we now have, and a lot of what is in that Order may not now be necessary, because you have the safeguard set in with the appointment of the Commissioners, Police Service Commission itself. So a lot of it may not be necessary, just for the record. So that the Order is not being legislated upon today at all.

Mr. Chairman: Subsection (3).

Mr. B. Panday: The point I was making on this was:

> "The Police Service Commission shall submit to the President, a list of names of the persons selected to be appointed for the approval of the House of Representatives."
>
> "And then the President may… "

So first of all, I was arguing whether you really want to bring the President into this because as you know by section 38(3) of the Constitution, he is immune from civil process and therefore not subject to judicial review. That was the observation.

Mr. Valley: I thought it is you all who brought the President into this?

Mr. B. Panday: No, I said why bring the President into this? Why not let them submit it—the Minister who brings it to Parliament? The reason is, I was worried about excluding judicial review; that is my concern.

Mr. Jeremie: This is what we have agreed on.

Mr. B. Panday: It may be Attorney General, I cannot remember all the things that I agreed on, but surely if we are dealing with it now and I come up on something that I had not observed, I would think you would graciously consider it.

Mrs. Persad-Bissessar: Attorney General, we did say we were looking at both ways and we asked that you look at what is the usual formula. That is what we had said.

Mr. Jeremie: This is the usual formula for the notification to come by the President.

Mrs. Persad-Bissessar: What is wrong with the Minister?

Mrs. Robinson-Regis: The only access the Service Commission would have is to the President.

Mrs. Persad-Bissessar: Why not through the Minister?

Mrs. Robinson-Regis: The Service Commission would not have access to the Minister because it is an independent body. It is supposed to be an independent body, so the person or the office that they would have to relate to is the President and then the President would forward to the Parliament.

Mrs. Persad-Bissessar: Could I ask through you of your drafting person—in law when the word "President" is mentioned, it is really the Cabinet.

Mr. Valley: In some cases.

Mrs. Persad-Bissessar: Would this be one of those cases?

Mr. Jeremie: No.

Mr. Valley: What is the problem with the President answering it? Because you do not want the President to be —

Mr. B. Panday: I was saying the only problem I have is that it now excludes him from judicial review because he is not subject to civil process in accordance with section 38(3) of the Constitution.

Mr. Valley: But how does judicial review comes? Because what we are saying is that he submits the name to the Parliament and we debate it and either say yea or nay.

Mr. B. Panday: If the President does not do what he has to do?

Mrs. Persad-Bissessar: The wording of it, the way you worded it, you need to really word in—you have said a list of the names of the persons selected to be appointed for approval of the House. But you should really say, they should submit the list to X who shall lay the same in the House.

Mr. Valley: But if one were to do that, the liability would still be that of the President and you would still come under section 38, because if he gives me the names, I am merely his agent. You understand? So he is still protected and you cannot sue me.

Mrs. Persad-Bissessar: You could sue the President—

Mr. B. Panday: Minister, I was saying, that the Service Commission should itself, do it so that they would be subject to judicial review.

Mr. Valley: But the Service Commission is subject to a Joint Select Committee, so if they do that they would take him to task.

Mr. B. Panday: No, that is totally—I think the Minister was saying that they do not have access to Parliament.

Mr. Jeremie: It comes through the President.

Mr. B. Panday: They cannot submit it to the Speaker? Why they cannot submit it to the Speaker?

Mrs. Robinson-Regis: The normal course would be for the President to submit the list and that list to come to the Parliament.

Mr. Imbert: How can they submit their own names?

Mrs. Persad-Bissessar: No, they are just sending the list for laying here with their own names. This is for the Commissioner of Police and the deputies. The PSC submits the list of names to be laid in Parliament.

Mr. B. Panday: Shall we think about it then and move on? Mr. Chairman, may we put that as we would think about it? Of course, on the page overleaf—

7.00 p.m.

Mr. Jeremie: Let us try to resolve this. The clause, as amended, would read:

> "The Police Service Commission shall submit to the President who shall cause to be laid a list of the names of the persons selected to be appointed for the approval of the House of Representatives."

Mrs. Persad-Bissessar: You are breaking the phrases in the wrong place.

Mr. Valley: But you get the idea; we will come back to it.

Mrs. Persad-Bissessar: It is the same formula as for the laying of the Salaries Review Commission (SRC) and the Elections and Boundaries Commission reports.

Mr. B. Panday: At the top of page 8, again:

> "The President may issue a Notification…"

He really must do it and not a notification; a notice containing the names of the persons. I would have said, "nominated to be appointed as Police Commissioner". That is subsection (4). In subsection (5), you have that notification thing coming up again.

Mr. Jeremie: Mr. Chairman:

"The President shall issue a notice containing the names of the persons selected to be appointed as the Commissioner or Deputy Commissioner of Police and the notice shall be subject to affirmative resolution of the House of Representatives."

Mrs. Persad-Bissessar: The objection was the same as with the Police Service Commission notice. Mr. B. Panday pointed out that it was not the notice you were approving, but the nominees; the persons' names.

Mr. B. Panday: That is why notification creates problems for you, because you cannot have an affirmative resolution of a notification. Suppose he appoints two deputy political leaders. [*Laughter*]

Mr. Valley: You are always appointing three and four. [*Laughter*]

Mr. B. Panday: I am consumed by politics; it has its own morality, do not forget. My point is, you may want to approve one and not the other; that is my objection. You cannot say, "I will approve the notification." You have to say, "I will approve the name." [*Crosstalk*]

Mr. Jeremie: We had agreed on the affirmative resolution procedure and that relates to a statutory instrument, which is defined to be a notification.

Mr. B. Panday: I am not on affirmative legislation, Attorney General. I am agreeing with that. You are asking to approve the notification; you have to approve the names, not the notification. Suppose he is appointing two deputy political leaders—[*Interruption*]

Mrs. Persad-Bissessar: Deputy Commissioners.

Mr. B. Panday: Deputy Commissioners, I beg your pardon; then how are you going to say, "I want one and not the other", or argue against it, and take a decision that I want one and not the other? That is the argument.

Mrs. Persad-Bissessar: This is the same objection to the PSC, which you deferred in subsection (4) early o'clock, so both of them have the same flaw. [*Crosstalk*]

Mr. Jeremie: Mr. B. Panday, we would either have to reject the notification—as I understand it, we would have to reject the notification if we agree to some, but not all.

Mr. B. Panday: Why would you want to do that? The man is appointing two

persons. That is exactly what I am saying; if you reject the notification, you reject them both, but the House may want to say, "Yes, one, but not the other."

Mr. Jeremie: Then you have to come back with a fresh notification.

Mrs. Persad-Bissessar: Remember with the SRC report, when you came with the Motion to approve that and we asked to amend it, I was told we could not do it. You told me something about a negative something, so we could not go for only one. [*Crosstalk*]

Mr. Jeremie: You said come back with a fresh notification.

Mr. B. Panday: And you come back with two again?

Mr. Jeremie: That is how it is done.

Mrs. Persad-Bissessar: We do not want to do that.

Mr. B. Panday: Why do you want to go through that process?

Mrs. Persad-Bissessar: No, we want to deal with the approval of the names.

Mr. B. Panday: Let us say you suggest Minister Imbert and Dr. Rowley and I want Dr. Rowley and not Minister Imbert, I must have the right to do so. [*Crosstalk*]

Mr. Imbert: If you had "with or without modification", would that do? [*Crosstalk*]

Mr. Jeremie: This is the parliamentary practice when you use affirmative resolutions.

Mrs. Persad-Bissessar: No; how it is done is what is legislated; we are here to legislate with a special majority, so we can do it as we see fit in policy. The Member for Diego Martin East is now studying law and he has a good suggestion.

Mr. Valley: We have to do individual notifications.

Mrs. Persad-Bissessar: A good suggestion has come from the Member who is now studying law, I understand.

Mr. Jeremie: What about doing individual notifications?

Mrs. Persad-Bissessar: With or without modification. [*Crosstalk*]

Mr. Valley: We cannot do that.

Mr. Jeremie: Let us do individual notifications.

Mr. Chairman: Could we use the words:

"The President shall issue individual notifications..."

Mrs. Persad-Bissessar: “Notice”, please.

Mr. B. Panday: Why can we just not say:

"The Police Service Commission shall appoint the Commissioner or Deputy Commissioner of Police only after the House of Representatives approves the nominee or nominees."

And then you are home and dry. [*Crosstalk*]

Mr. Jeremie: Could you repeat that?

Mr. B. Panday: I said:

"The Police Service Commission shall appoint the Commissioner or Deputy Commissioner of Police, only after the House of Representatives approves the nominee or nominees."

Remember your paragraph above talked about nominees.

Mr. Jeremie: In accordance with the Statutes Act. [*Crosstalk*]

Mr. Chairman: You could leave (4) as is.

Mr. B. Panday: That is why I said that instead of using the word "selected", we should say "nominated”. In subsection (4) you can say:

"The President shall issue a notice containing the names of persons nominated..."

Once you say that, it makes sense in the one that follows, because you are talking about nominee or nominees. [*Crosstalk*]

Mr. Jeremie: A notification in respect of each nominee; can we use that formula? [*Crosstalk*]

Mr. B. Panday: You know there is a new concept of interpreting and writing legal documents; be simple. Instead of all the legal jargon, the object is preciseness so that when the judge or lawyer reads, he or she knows exactly what it says.

Mrs. Persad-Bissessar: Are you talking about (4) or (5)?

Mr. Valley: Four. What I understand is that the term to be used is "notification" and we can individualize the notification. In (4) we can try: "The President shall issue a notification in respect of each nominee..."

Mrs. Persad-Bissessar: Nominee cannot be used, unless you go back and change the selection order and selection criteria.

Mr. Valley: In respect of each person selected to be appointed as the Commissioner or Deputy Commissioner.

Mrs. Persad-Bissessar: Read it one more time.

Mr. Valley: "The President shall issue a Notification."

Mrs. Persad-Bissessar: Please change "Notification" to "notice", Sir.

Mr. Jeremie: It cannot be; that is the term used in the Statutes Act.

Mr. Valley: It would read:

> "…in respect of each person selected to be appointed as the Commissioner or a Deputy Commissioner of Police and a notification shall be subject to affirmative resolution of the House of Representatives."

Mrs. Persad-Bissessar: That could work.

Mr. Chairman: You could cure the problem in (5). Leave (4) as is and all you do in (5) is to change the last line:

> "The Police Service Commission shall appoint the Commissioner or Deputy Commissioner of Police only after the House of Representatives approves a nominee or nominees."

And you leave (4) as is.

Mr. B. Panday: All you got to do is go back to (4) and instead of "selected" put "nominated".

Mr. Valley: Mr. Chairman, you just got a formulation in (4), if that is acceptable, leave (5) as is. I am a layman, not a lawyer.

Mr. Jeremie: Let us do it that way.

Mr. B. Panday: All I am trying to do is help. I am glad it is not going to the Senate, otherwise they would laugh at us.

Mrs. Persad-Bissessar: It is going to the Senate.

Mr. B. Panday: It has to go to the Senate? [*Laughter*] They will "lick the hell" out of us. They would criticize us for this.

Mr. Valley: It reads:

> "Each person selected to be appointed as the Commissioner or Deputy Commissioner of Police and the notification shall be subject..."

Mrs. Persad-Bissessar: There are usually four deputies, so you are bringing each one separately.

Mr. Valley: In other words, you can vote for one and not the other. You have individual notifications and you select. Then (5) would say:

> "The Police Service Commission shall appoint the Commissioner or Deputy Commissioner of Police only after the House of Representatives approves the Notification."

Mrs. Persad-Bissessar: You have to take out "Notification" there now.

Mr. Valley: Why? [*Crosstalk*] In other words:

> "The Police Service Commission shall appoint the Commissioner or Deputy Commissioner of Police only after the House of Representatives moves the Notification relating to the Commissioner or the Notification relating to the Deputy Commissioner."

Mrs. Persad-Bissessar: Agreed.

Mr. Valley: Is there anything else on (8)?

Mr. B. Panday: There is the 14 days in 8(a). I thought 14 days is really kind of long. A man AWOL for 14 days; he has not told you anything; he would not get in touch with you and 14 murders have been committed in the 14 days. [*Interruption*]

Mrs. Persad-Bissessar: Give him seven, in case he got amnesia and could not remember that he was the Commissioner of Police. [*Crosstalk*] Mr. B. Panday?

Mr. B. Panday: I am fine with that. [*Crosstalk*]

Mr. Valley: Nothing on page 9.

Mr. Chairman: We will come back to clause 6.

Question put and agreed to.

Clause 6 deferred.

Mr. Chairman: Let us go to clause 7.

Clause 7.

Question proposed, That clause 7 stand part of the Bill.

Mrs. Persad-Bissessar: I have something on clause 7. At the bottom of the page, which is (3):

> "The functions of the Commissioner of Police...may be exercised by him in person or through any police officer acting under and in accordance with his general or special instructions."

The usual formula is to put someone not below the rank of superintendent.

Mr. Jeremie: Clause 7, as amended.

Mrs. Persad-Bissessar: You have an amendment too?

Mr. Jeremie: Yes. [*Crosstalk*]

Mrs. Persad-Bissessar: We did not see yours; tell us what you have.

Mr. Valley: You want clause 7 new subsection (3), Member for Siparia?

Mrs. Persad-Bissessar: When you are delegating authority it is from the top officers in the police service, that is the Commissioner and the deputies. If they are delegating, they should not delegate to below the rank of superintendent. I have seen this formula elsewhere. I am saying:

> "…exercised by him in person or through any police officer not below the rank of Superintendent..."

You can insert that immediately before the word "acting".

Mr. Jeremie: Below the rank of?

Mrs. Persad-Bissessar: Superintendent. You can ask the draftsmen if they have any problem with that. [*Interruption*] [*Crosstalk*]

Mr. Chairman: So we will come back to clause 7?

Mrs. Persad-Bissessar: Clause 7 new subsection (4).

Mr. Valley: Why are we coming back to clause 7?

Mrs. Persad-Bissessar: We have finished clause 7 new subsection (3) and you have an amendment. You have clause 7 new subsections (1) to (4).

Mr. Valley: Well, let us take it now. The amendment for clause 7 has been circulated.

Insert after subclause (4) the following subclause

> "(5) Section 132 shall not apply to a decision of the Commissioner of Police or of any person to whom the powers of the Commissioner have been delegated under this section."

Mrs. Persad-Bissessar: Do you want to explain that for us, please?

Mr. Jeremie: We are seeking to remedy a defect in the drafting, which allowed the decisions of the service commissions.

Mrs. Persad-Bissessar: This appears to be delegated.

Mr. Jeremie: This relates to the Commissioner of Police or any other person to whom the powers of the commissioner have been delegated under this section.

We are trying to shut out section 132, which is a generic section applying to the Public Service Appeal Board.

Mrs. Persad-Bissessar: What does that say?

Mr. Jeremie: That relates to appeals in disciplinary cases, so you are insulating the police service from the rest of the service commissions. Now that we have the Commissioner of Police who is performing the functions—

Mrs. Persad-Bissessar: But section 132 applies only from a decision of the Police Service Commission, so you do not need this.

Mr. Jeremie: But the powers of the Police Service Commission now are going to be exercised, in the main, by the Commissioner of Police.

Mrs. Persad-Bissessar: Sir, with due respect, section 132 applies only to a decision of a Police Service Commission and, therefore, if you are saying that you are locking it out—

Mr. B. Panday: It says:

> "…or of any person to whom the powers of the Commissioner have been delegated..."

Mrs. Persad-Bissessar: The Police Service Commission delegated, but it has not delegated any authority. This is the old form; it is not applicable. Let us look at it again. Section 132 is for appeals and, therefore, it gives a right of appeal in disciplinary cases against the decision of the Public Service Commission.

Mr. Jeremie: No, no, no; against the decision of the Police Service Commission; so the route was from the Police Service Commission you go to the Public Service Appeal Board. We want to shut that out, so that you lock in appeals.

Mrs. Persad-Bissessar: Just look at the second part:

> "…any decision of a Service Commission, or of any person to whom the powers of the Commission have been delegated..."

This Police Service Commission is not going to delegate any function; the Parliament is legislating to give the Police Commissioner and his deputies powers. They will delegate, but decisions made by the Commissioner of Police or his delegates are not decisions of a service commission. Section 132 is not applicable; look at it.

Mr. B. Panday: Attorney General, is the right of this to exclude a right of appeal from the decision of the Commissioner of Police? Is that the objective of this?

Mr. Jeremie: It excludes the right of appeal to the Public Service Appeal Board, so that you go from the Commissioner of Police to the Police Service Commission.

Mrs. Persad-Bissessar: That was in the old law.

Mr. Valley: And from the Police Service Commission, not to the Appeal Board?

Mr. Jeremie: No; you stop at the Police Service Commission.

Mrs. Persad-Bissessar: I am saying, with due respect, in the old law, the Constitution provided that the Police Service Commission has the power to appoint, discipline and all these other things, but then it delegated to the Commissioner of Police certain things. This held, any power of the Police Service Commission or anybody they delegated to, would have a right of appeal to the Appeal Board. In the new law, no decision here by the Commissioner of Police or his delegate, is equal to a decision of a police service commission. Therefore, section 132 is not applicable. But a more serious issue arises; if there is no right of appeal to anybody for disciplinary matters now, what happens?

Mr. Jeremie: You have a right of appeal in respect of decisions from the Commissioner of Police.

Mrs. Persad-Bissessar: To whom?

Mr. Jeremie: To the Police Service Commission.

Mrs. Persad-Bissessar: Where is that? Is it in the drafts?

Mr. Jeremie: As we go on, you would see.

Mrs. Persad-Bissessar: So that is fine. We do not need this. Attorney General, defer it, let them think on it. This says:

> "An appeal shall lie to the Public Services Appeal Board from any decision of a Police Service Commission..."

You are now asking that it reads:

> "Section 132 shall not apply to a decision of the Commissioner of Police…"

Or his delegates.

Mr. Jeremie: Just before that, if you look at (d), we are inserting after subsection (9) the following new subsection, which would be (10)?

> "Section 132 shall not apply to a decision of the Police Service Commission under this section."

So we are taking out section 132.

Mrs. Persad-Bissessar: You have taken out section 132, with respect to the Police Service Commission.

Mr. Jeremie: Yes. Then we go on; after subsection (4), we are adding this subsection (5):

"Section 132 shall not apply to a decision of the Commissioner of Police or of any person to whom the powers of the Commissioner have been delegated under this section."

Mrs. Persad-Bissessar: Read 132 and tell me anywhere it says that it applies to a decision of the commissioner.

Mr. Jeremie: It could not before, because the Commissioner of Police did not exercise those rights.

Mrs. Persad-Bissessar: It just does not apply; anyway, go with it; they would tell you in the Senate.

Mr. B. Panday: I must confess, I am finding a little difficulty following it. [*Crosstalk*]

Mrs. Persad-Bissessar: Your new part (5) is speaking about a decision of the Commissioner of Police.

Mr. B. Panday: I need to make a lot of cross references before I could understand. [*Crosstalk*]

Mr. Jeremie: We will come back to it.

Mr. Chairman: We defer clause 7, for the time being.

Question put and agreed to.

Clause 7 deferred.

Clause 8 ordered to stand part of the Bill.

Clause 9.

Question proposed, That clause 9 stand part of the Bill.

Mr. B. Panday: Just an observation; was the intention here to prevent the Public Service Commission from delegating its functions?

"The Constitution is amended in section 127(1)—

(a) …deleting the words '; and' and substituting a full stop;"

If you look at section 127—

Mr. Jeremie: You have gone back to clause 8?

Mr. Chairman: We are on clause 9 now. Do you want to revisit clause 8?

Mr. B. Panday: I did not think I had ceased visiting it, Sir. [*Laughter*]

Mr. Valley: You "parang" the wrong house.

Mr. Chairman: Hon. Members, we will revisit clause 8.

Clause 8 recommitted.

Question again proposed, That clause 8 stand part of the Bill.

Mr. B. Panday: Clause 8 states:

"The Constitution is amended in section 127(1)—

(a) in paragraph (b) (ii) by deleting the words '; and' and substituting a full stop;"

Is the object here to prevent the Public Service Commission from delegating its function? Is that what this is intended to do? Well, if that is the case, I am afraid that this may not do it as 127(1) still gives the service commissions power to delegate; 127(1) gives the service commission approval of the Prime Minister to delegate.

Mrs. Persad-Bissessar: You are correct.

Mr. B. Panday: If your object here is to prevent delegation, which caused the trouble in the first place, then you may need a further amendment or something, because 127(1) gives the commission the power to delegate.

Mrs. Persad-Bissessar: You are correct. You may want to insert instead:

"save and except for the Police Service Commission..."

They are not delegating anything.

Mr. Jeremie: In 127(1)(c), which applies to the case of the Police Service Commission, the Commissioner of Police or a deputy commissioner of police, we are deleting that. [*Crosstalk*]

Mrs. Persad-Bissessar: When you go back to the top, as the Member for Couva North has said, it says:

"A Service Commission may, with the approval of the Prime Minister, delegate..."

It does not say to whom, but the power is given to delegate.

Mr. B. Panday: That is my whole point. When you delete that, then you get into trouble, because you are deleting the Police Service Commission from the power to delegate. That is why I was asking you if that was your objective, you have to do something with 127(1).

Mrs. Persad-Bissessar: You would have to say, "with the exception of the Police Service Commission".

Mr. Jeremie: What if we use this form of words:

"Service Commission other than the Police Service Commission."

Mrs. Persad-Bissessar: Sure.

Mr. B. Panday: That may help you.

Mr. Chairman: We will defer clause 8 also.

Question put and agreed to.

Clause 8 deferred.

Clause 9.

Question proposed, That clause 9 stand part of the Bill. [*Crosstalk*]

Mrs. Persad-Bissessar: Can we just have one moment with that, please. I am not sure why we want to include the commissioner there. Attorney General, what is the purport of clause 9?

Mr. Valley: There is no issue.

Mrs. Persad-Bissessar: What is it we are making the Commissioner of Police subject to? What is the meaning of this? What does it do?

Mr. Jeremie: If you look at 129—

Mrs. Persad-Bissessar: Section 129 deals with powers and procedures of service commissions and protection from legal proceedings. [*Crosstalk*]

Mr. Valley: How to discipline, based on criminal offence. It is under the public service. [*Crosstalk*]

Mrs. Persad-Bissessar: In any case, the ouster clause came out. [*Interruption*]

Question put and agreed to.

Clause 9 ordered to stand part of the Bill.

Clause 10.

Question proposed, That clause 10 stand part of the Bill.

Mr. Jeremie: I want to delete clause 10.

Mr. B. Panday: You are deleting clause 10 altogether?

Mr. Jeremie: Altogether, because clause 10 relates to the Public Service Appeal Board.

Question put and agreed to.

Clause 10 deleted.

Clause 11.

Question proposed, That clause 11 stand part of the Bill.

Mr. Jeremie: Mr. Chairman, I beg to move that clause 11 be renumbered as clause 10.

Question put and agreed to.

Clause 11, renumbered clause 10, ordered to stand part of the Bill.

Clause 12.

Question proposed, That clause 12 stand part of the Bill.

Mr. Jeremie: Mr. Chairman, I beg to move that clause 12 be renumbered as clause 11.

Question put and agreed to.

Clause 12, renumbered clause 11, ordered to stand part of the Bill.

Mr. Chairman: There is an amendment circulated.

Mr. Jeremie: Mr. Chairman, I beg to move that renumbered clause 11 be amended to read:

Insert after subsection (2) the following subsection:

"(3) Any matter which is pending before the Public Service Appeal Board immediately before the commencement of this Act shall be heard and determined by the Board."

Mrs. Persad-Bissessar: That is fine, a little transitional provision.

Question put and agreed to.

Clause 12, renumbered clause 11, as amended, ordered to stand part of the Bill. [*Interruption*] [*Crosstalk*]

Clause 4 reintroduced.

Mr. Chairman: Hon. Members, we will consider the amendments to Clause 4, as circulated, individually. [*Crosstalk*]

Mrs. Persad-Bissessar: Did that deal with our problems that were similar to the problems later on?

Mr. Jeremie: We will have to do the notifications individually.

Mr. Valley: Let us go through each of them.

Mr. B. Panday: Are you going to do that for the five persons to the service commission?

Mr. Valley: Yes.

Mr. Chairman: Hon. Members, we will consider the amendments to clause 4, as circulated, individually; so will take them, 4(a), 4(b), 4(c). I will call clause 4(a), 4(b), 4(c) and you have the amendments before you.

Mr. Jeremie: Mr. Chairman, I beg to move that clause 4(a) be amended as follows:

> Delete the words "subsection (2) and" and substitute the words "subsection (2) and (3)".

Mrs. Persad-Bissessar: You are repealing subsection (2), which deals with consultation by the President with the Prime Minister and the Leader of the Opposition and then the Chairman and Deputy Chairman of the Police Service Commission shall be added; that is fine. You are deleting two clauses that need to go.

Mr. Valley: It solved the problem that you had. With respect to 4(a) new subsection (4), we individualized the notifications the same as we did for the commissioner. [*Crosstalk*]

Mr. B. Panday: Sir, I must confess, unless I put all this on paper, it really confuses me. The old brain is getting a little fatigued. [*Crosstalk*]

Mr. Valley: "The President shall issue a notification in respect of each person nominated under subsection (3)." [*Crosstalk*]

Mrs. Persad-Bissessar: You cannot use the word "nominated"; the whole thing is selected throughout.

Mr. Valley: Selected for appointment? [*Interruption*]

Mr. Jeremie: Let us break for five minutes. [*Crosstalk*]

Mrs. Persad-Bissessar: Break? Why do we not break for a day?

Mr. Valley: Can we go to (5) and (6) while the lawyers deal with that?

Mr. Chairman: Do you have any amendments to (4), (5) and (6)? [*Crosstalk*]

Mr. Valley: All of 4 is deferred until they are finished, but these are already circulated, 4(b) and 4(c) to deal with the problem enunciated by Mr. B. Panday; 4(b) and (c) deals with that problem.

Mrs. Persad-Bissessar: Which problem?

Mr. Valley: The conflict between the Chairman of the Police Service Commission; what 4(b) is now saying with the amendment is:

Delete and substitute the following:

"(b) by renumbering subsection (4) as subsection (8); and";

So that it would take into consideration—

Mrs. Persad-Bissessar: I have no problems with those, but we want to deal with this notice issue.

Mr. Valley: We are going to come back to that; they are doing some drafting. I am saying, Mr. Chairman, that 4(b) and (c), the amendment, as circulated would deal with that. We can deal with the amendments as circulated for clauses 5 and 6. [*Crosstalk*]

Clause 4 deferred.

Clause 5 reintroduced.

Mr. Chairman: Hon. Members, the amendments to clause 5 are as follow:

A. In the proposed section 122A.(1)(b) delete the word "charge" and substitute the word "offence".

B. In the proposed section 122A.(3) delete the word "may" and substitute the word "shall".

Mrs. Persad-Bissessar: That is not making any sense. [*Crosstalk*]

Mr. B. Panday: We could join you down in the retreat and pass it down there. [*Laughter*] Let us get it right.

Mr. Valley: We will come back on Friday March 31,2006. [*Crosstalk*]

Mr. B. Panday: As you wish My Lord. [*Crosstalk*] Monday March 27, 2006? [*Crosstalk*]

House resumed.

The Prime Minister (Hon. Patrick Manning): Mr. Speaker, I have the honour to report to this House that the Constitution (Amdt.) Bill, which was referred to a Committee, is still the subject of deliberations. I suggest that the House reconvene on Monday, March 27, 2006 at 1.30 p.m. to complete our deliberations.

Question put and agreed to.

ADJOURNMENT

The Minister in the Ministry of Finance and Minister of Trade and Industry (Hon. Kenneth Valley): Mr. Speaker, I beg to move that this House be adjourned to Monday, March 27, 2006 at 1.30 p.m.

I want to inform you that there were two matters on the adjournment and by agreement we will defer them.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 7.50 p.m.