

*Leave of Absence**Tuesday, July 14, 1992***SENATE***Tuesday, July 14, 1992*

The Senate met at 1.30 p.m.

PRAYERS[MR. PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

Mr. President: Hon. Senators, I have granted leave to the following Senators to be absent from sittings of the Senate: Sen. Ashick Hassim during the period July 14 to July 17; Sen. Ainsley Mark during the period July 13 to July 17; Sen. Hydar Ali during the period July 15 to July 19 and Sen. Carol Mahadeo during the period July 18 to August 30, 1992.

PAPER LAID

Time for Action—The Report of The West Indian Commission. [*The Minister of Planning and Development (Hon. L. Saith)*]

ARCHITECTURE PROFESSION BILL

Bill respecting the registration of architects and otherwise regulating the practice of architecture [*The Minister of Works and Transport*]; read the first time.

Motion made, That the next stage be taken on Tuesday, July 21, 1992. [*Hon. C. Imbert*]

Question put and agreed to.

MAXI-TAXI REGULATIONS

The Minister of Works and Transport (Hon. Colm Imbert): Mr. President, I beg to move the motion standing in my name:

Whereas it is provided by section 13(1) of the Maxi-taxi Act, 1992 that the Authority may with the approval of the Minister make such Regulations as it considers necessary for the operation of the Act;

And whereas it is provided by subsection (13)(2) of the Act that such Regulations made under Subsection (1) shall be subject to affirmative resolution of Parliament;

And whereas on the 25th day of June, 1992 the Authority made such Regulations;

And whereas on the 25th day of June, 1992 the Minister approved the said regulations;

And whereas it is expedient that Parliament approve the said regulations;

Be it resolved that the Maxi-taxi Regulations 1992 be approved.

Mr. President, I shall now give some relevant information on these regulations before this honourable Senate. Hon. Senators will note that the regulations before us are identical in every way with the original regulations in the Maxi-taxi Act of 1979, the former Act. The reason for this is that the agreement reached on the Maxi-taxi Act of 1992 was that the bill be in its original form with two amendments. It was felt that in the spirit of that agreement, it would be appropriate at this time, since the original Act was the Act that was passed with the amendments referred to, that we also bring the original Maxi-taxi Regulations. The reason for this is that we could have brought revised regulations, but since these do not require a special majority, it could have been argued that we were using the powers of our majority unnecessarily.

I wish to give Senators on the other side my fullest assurance that the revised Maxi-taxi Regulations will be laid in this honourable Senate within the next five weeks. These regulations have already been prepared by my ministry and we shall be taking recommendations to Cabinet within the next week, after which the approved regulations will come to this honourable Senate.

I should like to inform Senators of the areas that my ministry has addressed in these revised regulations. We have examined the question of the owner/operator provision and this will be an amendment to the Act itself. We will be bringing a recommendation to clear up the ambiguity in the owner/operator provision to allow operators, who are not owners, to operate maxi-taxis. Additionally, we will be addressing the problems related to the volume of music in maxi-taxis, the obscuring of windows, and several issues raised by Senators in this honourable Senate when I had the privilege to address you on an earlier occasion, such as, the need for a special permit for maxi-taxi operators, whether a medical examination is considered necessary, whether conductors are required, and whether these conductors should be licensed, and several other issues raised by hon. Senators on the other side.

I, therefore, would ask the indulgence of hon. Senators to allow these regulations to be approved at this time in their original form, pending laying of the revised regulations, as I said, within the next five weeks.

There is one other matter that I think needs clarification. One of the amendments to the Act that was passed previously, was the insertion of a tribunal to deal with appeals from persons who feel they have been unfairly treated in the issue of permits. These regulations do not address the functioning of that tribunal, but I wish to give hon. Senators my fullest assurance that the revised regulations will provide all that is necessary for the proper functioning of the Appeals Tribunal.

Mr. President, I beg to move.

Question proposed.

1.40 p.m.

Sen. Muntaz Hosein: Mr. President, the question of the Maxi-taxi Regulations is back with us, and the Minister, in introducing these regulations, which substantially are the old regulations, has indicated that within five to six weeks all the suggestions made by this side of the House, will be substantially dealt with. He names some of them.

It is instructive that we did not get a copy of the amendment that was passed in the other place. Perhaps it is an oversight, but I believe that we should have been given the opportunity to know what that amendment was, and some information about the amendment should have been circulated to all of us in this Senate.

It is also strange that the clause on the tribunal was not dealt with in these regulations. I understand that the other suggestions made by Members on the last occasion the bill was debated, could wait. But I feel that the matter of the Review Tribunal is important enough to have been put into these regulations. Because it is a buffer for anyone who felt aggrieved during the period that the bill was passed in the Senate and the time that the regulations are brought to this Senate. They would have had the right to appeal and have their matter addressed. I feel that should have been addressed in the regulations, and it is sad that it is not.

I thought also that having not addressed that matter in the regulations, the least the Minister could have done was to give us some more information. I should have liked to hear that this tribunal will comprise three people, or five, as the case may be, and the names of these people could have been given to us so that we would know that there is some work being done and the matter is being addressed. But that did not come today and I hope that, perhaps, the Minister will address this shortly, and within a few days rectify that problem.

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On this occasion, we are asked to accept that the Minister will bring this bill within five to six weeks. For me, it is all a question of whether the track record of the Government is one that we can say that when they give their word, they will follow it up in short order. If we examine the track record of the governments that went before, we will find that this has not been the case. The record has been dismal up to this point. I would be less than charitable to inform our community that they can expect that these regulations will come on time and within five to six weeks. I hope I am wrong and I hope that the Minister will bring it to the Senate in that time. If he would do that, he would be setting a track record that would enable Senators on this side to trust his word.

It is difficult enough to get a date from Ministers on the other side. We try our very best when we ask questions in this Senate, to try to get them to give us some time-frame. Their answers are usually quite evasive. I believe that the Minister, to his credit, has been able to give us some time-frame. I congratulate him on that. I hope that this is something new; I hope that this is going to be the order of the day that this is going to be the pattern. I hope that following that everything possible will be done to meet the deadline.

I want to give the Minister the benefit of the doubt today. If I do not do that, I feel that I would not be meeting the Minister halfway. I want to meet him halfway. I want him to succeed, because if he succeeds, all of Trinidad and Tobago is likely to benefit. It is from that standpoint that I want him to succeed. Therefore, I am prepared to give him the benefit of the doubt and see what will happen when the time has passed. I hope that he will keep his word, and I wish to point out that if he does not, I would be back to tell him and to advise the Senate that the Minister did not keep his word, and thereafter, I am afraid I may not be in a position to go easy on him, as I am doing today.

I want to just make two points. I wish the Minister to be aware that this is a very serious motion. I am aware that the entire works of the maxi-taxi have been kept back, pending this bill. We, therefore, do not wish to stand in the way of freeing that up. We want this thing to go on, because people are suffering out there as a result of this legislation. I want him to understand that we are looking forward to his addressing all the points made on this side of the Senate, because I believe that all of the contributions from both the Independent and the Opposition Senators, have been very worthwhile ones. These contributions were not politically oriented. They were contributions which will assist in the smooth

running of maxi-taxis in Trinidad and Tobago. We are looking forward to seeing how he will deal with that and we expect him to deal fairly and honestly with them, and when he brings these regulations back before the Senate, the amendments and so forth, that they will reflect what he has said today.

1.50 p.m.

Mr. President, secondly and most importantly, I wish to point out to the Minister, that the Government's record with regard to implementation is a sorry one. It is only by implementing those laws that we pass in this Senate, that they are of any use. When the Maxi-taxi Bill was being debated, I took pains to point out to the Minister that what was in the regulations was not being followed. The implementation was sadly lacking, so it was not enough to pass the bill with all the different amendments—good amendments—it was more important to put them into effect. Therefore, we must put the mechanism to deal with the bill in motion and practice what the regulations call for.

The Authority to monitor the Act—from way back when the bill was presented to the Senate and amended several times—did not do their job. That is clear. I do not know why. Perhaps they had too much work to do; perhaps they did not have enough staff to do the work—I am not aware of the reason. What is clear to me is that nobody followed up and made sure that the laws here were put into practice.

People are allowed to violate the laws with impunity. We had become—and we are fast becoming again—a nation resembling the wild west, where the strong rule and the weak are trampled upon. Not only in the question of the maxi-taxis, which we are all aware of, but in many other areas. This has got to stop. It is the responsibility of the Government to make sure that the weak are not trampled upon. Therefore, it is not so much in the laws that we pass—because the statute books are full of excellent laws in all spheres of the society—the problem is that they are not implemented.

I want the Minister to be aware of that, and I want to ask him to lay emphasis on implementation of the bill. Thank you.

Sen. Rev. Daniel Teelucksingh: Mr. President, I too, should like to join with all those who commended the hon. Minister of Works and Transport for the efforts of his Ministry in the drafting of the required maxi-taxi legislation and its attendant laws. Although seemingly partial, many significant aspects of the maxi-taxi operations are addressed.

Sir, I enquire, of the hon. Minister, the purpose of question No. 11 in the First Schedule containing the prescribed application—that is in the document before us—for ownership of a maxi-taxi, where the question is asked: “Are you prepared to work full time as a maxi-taxi operator?” I need some clarification on that question, for, I am wondering, since there is a caution clause against false declarations, whether this question asked in the application form may not militate against applicants. For example, farmers or seasonal workers whose option may be to operate their maxi-taxis at certain times convenient to them, may prefer not to function as full-time operators. The question then is, whether permits are reserved for full-time operators only? That is my first query.

I should be grateful if the hon. Minister could throw some light on a question that seems to be unrelated, but somehow or the other, is concerned with the whole business of maxi-taxi operations. It has to do with the question of insurance coverage, particularly compensation for accident victims. A few days ago, some persons reminded me that this is a matter that should be considered at the same time as these regulations are being discussed.

These have been debated *ad infinitum*. Too many persons of the travelling public entitled to compensation for injuries continue to suffer due to the lack of funds for medical attention. Some wait for several years at the whims and fancies of certain insurance companies which are more interested in the fine print of their policy documents, and joyfully welcome a recurring postponement of legal proceedings.

We recall the unfortunate school children who were critically injured in maxi-taxi crashes several months ago on the Valencia stretch. A family called me a few days ago, reminding me of the urgent need for medical attention abroad, and they all depend on public sympathy as various voluntary organizations appeal for donations on their behalf. What about insurance coverage? On the one hand, our laws make it profitable for insurance companies by insisting that all vehicles on the road be insured, but, disappointingly, certain of these companies are allowed to be delinquent in their obligations.

I would wish that the hon. Minister bring to the notice of the relevant authorities, the fact that recently the driver of a maxi-taxi was seriously injured in an accident while operating his vehicle. He has a family depending on him as the only source of income. He was unable to work. There was no compensation for him because, according to the law, he is not entitled to insurance coverage since

only paying passengers in his vehicle are insured. But he is one of our citizens too. The state must be concerned about him and the welfare of his family if he is involved in an accident.

I understand that under the Workmen's Compensation Policy Ordinance, he and his conductor should be covered, but since that is an additional expense, somehow or the other, it becomes optional for the driver of the maxi-taxi. There are so many of them who see such coverage as an additional expense only to be avoided until, of course, there is a crisis. I think if the paying public is covered by an insurance policy, the driver and the conductor of that vehicle should be similarly covered.

2.00 p.m.

Another question I would direct to the hon. Minister has to do with the fact—I live in Chaguanas and I know—that there are several private buses, or we call them “PH maxis” used for public transport, not only in excursions and sightseeing tours. Now we are particularly concerned about the transportation of school children. These are registered as private vehicles and as such they do not carry any insurance for injuries for any category of passengers. Parents take their own risk. I suspect they do not even know the law, but if even they do, they do not have a choice.

The transport authority permits such a service. They are aware of its attendant disadvantages and ignore it. Furthermore, may I remind the hon. Minister, that certain of these “PH maxis” are perilously overloaded and overcrowded, especially with kindergarten and primary school children. Makeshift seats are added, beyond the manufacturers' specification, with emphasis on profit making. The question is. Are these vehicles used for public transport subject to regular inspection by the Licensing Authority? Obviously not! If such vehicles are to be recognized for public use, then there is urgent need for appropriate legislation to ensure their safety. If it is possible, bring them within the maxi-taxi net. I thank you.

Sen. Wade Mark: Mr. President, there are just some small observations I should like to make.

We have to really do something quickly about the number of maxi-taxis that are on the roads of this country. When I spoke at the last session, I made it very clear that out of the 3,000 plus maxi-taxis on the road, approximately 75 per cent are not owned by the drivers who are operating them. They are really owned by fleet owners.

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Under the regulations, it is stated very clearly, that no one is permitted to operate and own more than one maxi-taxi; yet it appears that the law is being flouted. The problem that we have is the exploitation that takes place with those maxi-taxi drivers. I believe that the Minister would probably have to give consideration to some sort of mechanism to protect the livelihood of these maxi-taxi drivers, who are not owners of those vehicles, and who as you know have to submit a sizeable amount of cash at the end of each day. They have to end up working extremely hard in order to make two ends meet. Hence the reason we have so much recklessness and carnage on the road. I believe that is an area that the hon. Minister would need to pay some attention.

I think it would also be useful for the Minister to let us know the extent of the inconvenience and dislocation caused to persons who have applied for maxi-taxi permits, between the period of the striking down of this particular Act by the High Court judge, and now. The reason why I raise this is that I know for a fact, that the Licensing Authority has been virtually shut down as far as that aspect of its operations is concerned, because the regulations are extremely critical for the Transport Commissioner or the administrative authority to really have the kind of power to issue permits to persons, who are desirous of having or owning a maxi-taxi. I believe that the Minister owes this Senate some explanation.

We are supporting the regulations. We think it is only fair that we on this side, and the country as a whole, get some clarification from the Minister, as to the extent of the suffering and dislocation that the potential owners of taxis have had to undergo. Certainly, you know unemployment is extremely high at this time in Trinidad and Tobago. It is rising; 20,000 children or thereabouts left school a short time ago, and they are on the roads of this country. When there is a situation in which people are making an application to own a vehicle, so that they can make ends meet and we have this situation that we are faced with, I am certain that the cost is going to be extremely high. I think it would be useful for the Minister in winding up, to indicate to us precisely what is his information on the extent of the suffering experienced by those potential maxi-taxi owners.

I also want to indicate that we on this side are not extremely happy with the fact that a bill was introduced in this Parliament, and while we maintained that it is somewhat difficult to have regulations submitted simultaneously, it would have been useful for the Government to give this Senate some signal as to what their thinking would have been, in terms of those regulations. We passed a bill and

almost three weeks afterwards, or perhaps a month, we are now dealing with regulations which are the same; no changes.

Why did the Minister take so long knowing full well, that people out there are under severe pressure? Why did it take the Minister so long to bring the same regulations back to this Parliament? He is now advising us that shortly or in the next six weeks, we are going to have comprehensive regulations, which would take into account all our concerns including procedural steps necessary to access the review tribunal that was established under the Maxi-taxi Act.

Mr. President, these are very important issues which affect the lives of people. At present they are waiting for these regulations to be passed. I think that the Minister would need to give us some clarification and additional information on this particular matter which I have raised. As I said, we should like to find out from him the extent of the inconvenience and dislocation and why it took this caring Government so long to bring these same regulations back to this Parliament, when this could have been accomplished a few weeks ago.

2.10 p.m.

We, on this side, would not have any objection in supporting this bill to bring into effect regulations in order to ensure that the suffering population in the society who are desperately and anxiously looking forward to the passage of these regulations get the necessary relief. We would not be party to blocking these regulations, but we should like the Minister to provide this honourable Senate with some explanation, and, most importantly, let us know what has been the cost and the extent of the inconvenience and dislocation experienced by those potential maxi-taxi owners and the population as a whole, as a result of the unnecessary and lengthy delay in bringing these regulations to this Senate.

Sen. Hydar Ali: Mr. President, as the hon. Minister is prone to take advice—has told us so here—and since the new regulations are being drafted, I take the opportunity to make a few further comments.

The first refers to paragraph 6, which relates to the number of maxi-taxis a co-operative society may be granted. I mentioned the last time that perhaps, we should put a number to that. I see nothing here about a number, and perhaps, there should be some number in proportion to the size of the co-operative society.

Again, in paragraph 8(2) of the regulations:

"A Maxi-taxi operating under this regulation should be clearly marked 'chartered'"

And lower down, it says fares and destinations should be displayed; I think that these things ought to be enforced. I do not think that all the maxi-taxis have these displayed—certainly, not the destination sign—so you have to depend on this guy who shouts at people on the corner. I think we can save some time and traffic jam if signs are properly displayed.

Also, in reading the First Schedule, *nota bene*, it says:

"It is an offence under the Act to give any particulars which are false or in any material respect misleading and you will be liable to prosecution if you do so".

The language sounds a bit stilted there. Perhaps it is the use of the word "you". It is strange to have this second person coming in suddenly. In the next line, it would appear that "Answers" might be more appropriate than "Answer"

The final point I should like to make concerns the Fifth Schedule, "Specifications of Maxi-taxis", which says:

"(b) adequate luggage compartment approved by the Administering Authority for personal luggage of passengers"

I do not think that this is applied now. I am not aware that these maxi-taxis have any kind of luggage compartment, as opposed to adequate luggage compartment. The term there used is "compartment". We are accustomed to having these on the big buses at the side and at the back, at least some separate place. If you were to enforce this, I think perhaps many of these maxi-taxis would not get a licence.

The last point, under (n) is the destination sign, which I referred to before.

Mr. President, since the debate on these regulations is almost complete, perhaps some of these points can be taken into consideration.

Thank you very much.

Sen. Everard Dean: Mr. President, as you would have sensed, I did not intend to say anything on these regulations, but because my colleague, Sen. Hydar Ali, is proposing to put a cap on the number of maxi-taxis that can be allowed under clause 6 to the co-operative societies, I rise to say that it seems to me that he is not fully aware of the operations of the Co-operative Societies Act under which they operate. I am sure that the original framers of this regulation understood,

quite clearly, the nature and operations of co-operative societies and the target group whom they aim to please. I do not think that one should take the reading literally, to say that co-operative societies, as an organisation, will own and operate maxi-taxis. I think that what happens is that they lend money to the deserving cases and carry them until the loan is paid off.

I thought that I would make this observation so that the Minister in looking at the request made by my colleague, surely would not implement that part.

Sen. Dr. Eric St. Cyr: Mr. President: I wish to make just two brief remarks pertaining to the maxi-taxi as a form of transport.

The thing that concerns me most is the opportunity that this form of transport gives to standards of behaviour—practices, impacts and influences—on the young people of the nation. The noise level and the type of music, which I know the hon. Minister referred to as being under review, I think are matters that really need to be handled urgently and in a manner that does not give a way of escape. I know that in some countries of the Caribbean, that is banned. Perhaps, we ought really to be as firm as that, in this country. The teenagers of this country are exposed, on those maxi-taxis, to undesirable influences. About six weeks ago I read in the newspapers where there were actual sexual offences committed in a maxi-taxi.

This brings seriously into question the nature and type of persons into whose hands these businesses fall. I do not know how we can address this, but it is really such a serious matter that, perhaps, the only way we can get at it, is to attempt to have persons of integrity and high standards operating in this area.

There is a tendency to use the vehicles for racing and sporting. I understand that sometimes alcohol is consumed—light alcohol probably, beer and stout—by the drivers and conductors. These matters are so serious that we need to pin them down. I know that the cost of transport is serious and that this form of transport is, perhaps, the area in which we can get the greatest cost effectiveness, but I think sometimes we want to be sure that where we save a dollar we do not throw away a life.

I am asking that these considerations, which are probably subtle in the extreme, be addressed as we draft the regulations for the next period.

2.20 p.m.

The Minister of Works and Transport (Hon. Colm Imbert): I wish to thank hon. Senators on the other side. It seems that they are prepared to support the passing of these regulations and I am very grateful for that.

However, I should just like to address the points raised by hon. Senators, specifically. Let me start with Sen. Teelucksingh, who had a question on question 11 of the application form: "Are you prepared to work full time as a Maxi-taxi operator?" The guiding principle here is that the maxi-taxi should be the sole source of income for the operator. It is intended to help the unemployed. So that the intention was that if you were working full-time as a maxi-taxi operator, that would be your only form of income. That is the intent there. Certainly, permits are reserved for persons who are full-time maxi-taxi operators. That is the answer to his question.

Regarding insurance coverage, this is covered under the Motor Vehicles and Road Traffic Act. I am not entirely qualified to speak on this, but it is related to the delays in the administration of justice and the need to tighten the insurance laws, and so on. I can assure you that I will be raising this matter with the Attorney General, to take a look at the insurance provisions in the Motor Vehicles and Road Traffic Act and see how we can tighten them to deal with these problems, which are real problems. I share your views in many respects that, quite often, people do not get the sort of redress that they should.

Regarding the service to school-children and the question of "PH maxis", as they are called, there are regulations relating to the carrying of passengers in vehicles other than maxi-taxis, and one of the problems with the original Maxi-taxi Act is that of enforcement. I did omit this, and I must apologize for that. One of the major areas that we will be looking at when we come back is the penalties and the enforcement of these penalties. One of the problems with the regulation of maxi-taxis over the years has been the inability of the enforcing authorities to take action, to enforce the Act. Certainly, we will be looking at the penalties to tighten them up.

We have examined whether there should be a point system, and that when someone accumulates a number of points for various offences this may affect his permit, and so on, because at present the penalties are not tight enough. Certainly, when I return, I will be looking at the penalties. I hope this addresses this question of overloaded vehicles, and PH maxis, and all that sort of thing.

Sen. Wade Mark raised the question of 75 per cent, in his estimation, of maxi-taxis being owned by fleet operators, the question of exploitation and so on. Certainly, we have recognized that there is need to amend the law to allow persons who are not owners to be operators. We are dealing with that aspect of it.

But, specifically, I think it is time that we recognized that the maxi-taxi system has reached the level of an industry, and these points that the Senator is raising here relate to the regulation of an industry and whether there should be requirements for wages and things of that nature. I believe that the maxi-taxi system, with 3,500 vehicles on the road, has as I have said, reached the stage of an industry and this is something that must be addressed and, certainly, I am going to address it. He has raised it and I will look at other precedents and see if there is any way of incorporating what he has suggested into the law.

Regarding the inconvenience to persons at the Licencing Office, it is my information that not only potential owners and operators of maxi-taxis have suffered, but also the importers and motor vehicle assembly industry. Apparently, there are several new maxi-taxis that have been imported into this country since the striking down of the legislation and the importers have had all these vehicles on their hands. This morning I was talking to an importer who was expressing great concern that he had invested in all of these vehicles and he was unable to sell them because the Licencing Office is unable to process permits to own and operate maxi-taxis.

A rough estimate of numbers would be of the order of 200 applicants who have been denied the opportunity to receive a permit to own and operate a maxi-taxi, and I am glad the Senator has brought it up, because this is the reason why it is necessary for us to be expeditious in the passing of these regulations. So I hope I have answered his concerns there.

Regarding the question of why we took so long, I do not want to appear as if I am knocking Senators on the other side, but I do recall Members of the Opposition being asked to debate these regulations last week and my request was denied, so I am a bit surprised that I am now receiving a complaint about the delay. That is really not an issue that should cause us much attention.

Regarding the matters raised by Sen. Hydar Ali, the problem with the display of fares and destination signs relates to the problems with the looseness and lack of enforceability of the penalties in the Act. Indeed when I started to look at the Act this was the first item that was brought to my attention and, certainly, we will have to tighten up the penalties and, as I said, we are considering a points system to see if this would guide people to follow the provisions of the law.

Regarding his comment on the luggage compartment, certainly this has to do with the type of vehicle and it is a problem that will have to be sorted out with the

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manufacturers. I can assure him that I will address it. At this point there are compartments, but with regard to the volume of luggage that is carried on these vehicles, it may be correct that it is something that has to be looked at to see whether the luggage compartments are adequate.

Regarding the matter of the co-operative society, well, I am guided by Sen. Dean. I will certainly educate myself on the workings of the co-operative society so that perhaps when I return, I may have something for hon. Senators there.

Regarding Sen. St. Cyr's question with respect to the noise level and the type of music and the suggestion that there be no escape, this is a matter that has engaged my personal attention. I agree with him that it is one of the most difficult areas of enforcement, that if one sets a noise level, exactly how does one enforce that noise level. Certainly, I am considering all the options with regard to the control of music and I can assure hon. Senators that when we return we will have something in place to control the level of music. But certainly, I take his point that it is a difficult area and there should not be any loophole in the area where operators can escape the law.

I should like to again reiterate that when I return to this honourable Senate with the revised regulations in five weeks' time—Sen. Hosein—I will most certainly deal with the aspect of the Act regarding the tribunal. Certainly, we shall have to look very closely at the provisions of the amendment to the Act and the tribunal and make sure that they are tight enough and properly worded. And we will provide provisions in our regulations so that the whole functioning of the Act, how people apply to the tribunal, what form of redress, the waiting period—all this sort of thing will be looked into

I wish to thank hon. Senators on the other side for their willingness to support the Government and their very kind consideration to approve these regulations. I sincerely hope that in all my dealings with the Senate I receive such co-operation from the other side.

Thank you.

Question put and agreed to.

Resolved:

That the Maxi-taxi Regulations, 1992 be approved.

FIREARMS (AMDT.) BILL

Order for second reading read.

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. President, I beg to move,

That a bill to amend the Firearms Act, Chap. 16:01, be now read a second time.

The intent of this bill is a very simple one: It is simply to clear up an anomaly that exists in the present legislation. Let me explain. To do so it will be necessary for me to refer to two sections of the Act and part of the definition section. Section 6 (1) of the Act states as follows:

“Subject to section 7, a person may purchase, acquire or have in his possession a firearm or ammunition only if he holds a Firearm Users’ Licence with respect to such firearm or ammunition.”

Section 6(2)—that is the existing section, and the one which this is intended to amend—states:

“Notwithstanding any other law or any law repealed by this act a person may not have in his possession any prohibited weapon unless he is a police-officer acting in his capacity as such or is a member of the Defence Force established under the Defence Act 1962 (referred to below as ‘The Defence Force’), acting in his capacity as such or a customs officer acting in his capacity as such while patrolling the territorial sea of Trinidad and Tobago.”

Section 7(1) states:

“The following persons are exempt from the provisions of 6(1) that relate to having a firearm or ammunition in their possession:

- (a) police-officer acting in his capacity as such or a member of the Special Reserve Police established under the Special Reserve Police Act acting in his capacity as such or a member of the Defence Force acting in his capacity as such or a prison officer acting in his capacity as such or a customs officer acting in his capacity as such if the firearm or ammunition are the property of the Government.”

Under section 2, of the Act:

“ ‘Prohibited weapon’ means—

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- (a) any artillery or automatic firearm;
- (b) any grenade, bomb or other like missile; or
- (c) any weapon of whatever description or design which is adapted for the discharge of any noxious liquid, gas or other thing.”

The legislation, as it is, makes it unlawful for a prison officer to have in his possession an automatic weapon or any weapon which is adapted for the discharge of any noxious liquid gas or other thing; in particular, any weapon for the discharge of tear gas.

There is no doubt, that in the best of regulated prison systems, there is the need to ensure that prison officers are properly equipped to deal with any eventuality, may that eventuality emanate from within or without. Given the present state of our prisons, it is even more necessary for our prison officers not to be caught with their pants down to deal with any situation that may arise.

I am not for a moment suggesting that we are seeking to arm prison officers to deal with prisoners, full stop; but as an institution which must be secure at all times, it is necessary that the prison officers be adequately equipped to deal with any eventuality. As it stands at this point, they are not entitled to have one of the most acceptable means of dealing with prison riots or any disturbance within the prison, that is, tear gas.

As such, the Government deems it necessary that this legislation be amended to clear up the existing anomaly.

Mr. President, I beg to move.

Question proposed.

Sen. Surendranath Capildeo: Mr. President, there is a yawning somnolence to the lethargic legislative programme of this mindless administration. There is a paucity of thought, a lack of vision, a dearth of ideas, a bankruptcy that threatens to spill over into areas of morality and spirituality. There is a laziness, a lackadaisical approach to legislative life that reeks of boredom and ennui born of a misplaced arrogance of political minority power. Having scraped past in the polls, this administration has only enough will left to stay in power.

How else, Sir, do you explain the sudden appearance of this Firearms (Amdt.) Bill, 1992—this revolutionary earth-shaking measure which appears suddenly out

of the blue to engage the attention of this honourable Senate? The object of which bill, as the explanatory note says is to amend the Firearms Act, Chap. 16:01 to include prison officers, acting in their capacity as such, in the categories of persons authorized to be in possession of prohibited weapons. Irony of ironies, 114 horses have bolted, legally at that, and the stable door is now being locked.

The proposed amendment says:

“Section 6(2) of the Firearms Act is repealed and replaced as follows:

“(2) Notwithstanding any law to the contrary, a person may not have in his possession any prohibited weapon unless he is, and is acting in the capacity of—

- (a) a police-officer;
- (b) a member of the Defence Force;
- (c) a customs officer while patrolling the territorial sea;

or

(d) a prison officer.”

What puzzles me is, where is the emergency? Why this little bit of legislation at this time when the relevant section, section 7(2) says as follows:

“The following persons are exempt from the provisions of section 6(1) that relate to having a firearm or ammunition in their possession:

- (a) a police-officer acting in his capacity as such or a member of the Special Reserve Police established under the Special Reserve Police Act acting in his capacity as such or a member of the Defence Force acting in his capacity as such or a prison officer acting in his capacity as such...”

And I will pause there, Sir. this section takes care of prison officers. If you want to amend the Firearms Act to take care of prison officers, why not go on to section 8? Section 8 says as follows:

“Any person other than a Police-Officer or a member of the Defence Force in both cases acting in his capacity as such is guilty of an offence and liable on summary conviction to a fine of four thousand dollars.”

If you are going to amend the Act to assist prison officers, why not amend section 8 while you are at it?

Further, at this stage, I want to refer to the Prisons Act. Section 13 of the Prisons Act says:

“Use of firearms by officers:

“For the purpose of preventing escape or violent assault, and for the purpose of preventing or suppressing mutiny, any officer having charge of any prisoners may use firearms or any other mode of force, and shall not be responsible for the consequences of the use, if necessary, for any of the purposes mentioned above.”

Nowhere in the Prisons Act is there a definition of the word “firearm”. You cannot run from the Prisons Act to another Act to glean that definition. So what is the position here with the Prisons Act? why has this Act not been considered?

Again, when you go back to the Firearms Act, Chap. 16:01, and you look at the interpretation section, it says this of firearms:

“‘Firearm’ means any lethal barrelled weapon from which ammunition can be discharged or any prohibited weapon...”

And that is the point: “Any prohibited weapon”.

“And includes any component part of any such weapon and any accessory to any such weapon designed or adapted to diminish the noise...”

The point I want to stress, Sir, is that in the Interpretation section of the Firearms Act there is a definition of “firearm”, which includes the word “prohibited weapon”.

Mr. President, further on in the interpretation section, there is also a definition of the words “prohibited weapon”, and it says this:

“Prohibited weapon’ means—

- (a) any artillery or automatic firearm;
- (b) any grenade, bomb or other like missile; or
- (c) any weapon of whatever description or design which is adapted for the discharge of any noxious liquid, gas or other thing.”

You have the making of a concept here. Because the definition of “firearm” includes the words “prohibited weapon”. If section 7(1) of the Firearms Act exempts a prison officer from the provision of section 6(1) which says, in effect,

that you cannot have a firearm unless you have a firearm user's licence, if a prison officer is exempted from that section and he is allowed the use of a firearm and under the interpretation section, "firearm" includes "prohibited weapon", what is the point of the amendment?

Would it not have been better to amend the interpretation section either to delete the reference to prohibited weapon in the interpretation of a firearm, or to extend and have a separate definition for "prohibited weapon"?

Somebody, for some reason, is trying to be extra meticulous and is intent on tidying up a subsection of an Act which has been on the statute books for some 20 years without thinking the whole thing through. If prison officers under the existing Act are exempted from having a Firearm User's Licence and are entitled under the Prisons Act to use a firearm, and if the definition of the word "firearm" includes prohibited weapons, then it impossible, at first blush, that a prison officer could use a prohibited weapon.

If you are going to amend to clear up that point, would it not have been better to do so in its entirety by looking at all the sections and amending the interpretation section to avoid any possible doubt in anyone's mind? Would it not have been better, also, to amend the Prisons Act, whilst you are at it? Quite frankly, this is what I call a ridiculous emphasis on legislative trivia. It is a farce, when we all know what is happening in this country.

This country is in the hands of criminals and, I hasten to add, before Senators on the other side plead guilty, I mean criminals, not political criminals, true criminals. We all know that law-abiding citizens live behind bars. They drive with their windows in their cars up. Some people are scared to stop at major roads, at traffic lights. People are scared. Homeowners open their garage gates in fear—and Sen. Baksh will tell you what happens right outside your own door in the street—people sleep in fear. Businessmen have become almost immune to hold-ups, and bank clerks, employees behind cash registers live in daily fear.

Life in this country is perpetually at stake. The quality of life has been reduced to that of self-preservation and every day as you read in the newspapers, we take one more step backwards to barbarity. The criminal knows that, so that the attacks become more brazen, the crimes become more prevalent until they have assumed epidemic proportions.

For Trinidad and Tobago, a small country of 1.2 million souls, we just have too much crime. You have to ask yourself what has happened to the Trinidadian

of the 1950s and 1960s. Where has he gone? The sociologist could have a field day of research. Have you noticed the kinds of horrendous crimes that take place on a daily basis in this country? There is not a day that the press does not report some terrible vicious animalistic death ritual. Are we breeding monsters in this society?

2.50 p.m.

Mr. President, the crime statistics are criminal and if you permit me to read the notes I have here—

The statistics up to December 15, 1991 are as follows:

15,317	Serious crimes
2,944	Robberies
419	Felonious Woundings
212	Rapes and other sexually-related offences
6,954	Break-ins
97	Murders

The estimate, is one robbery every 2.9 hours; one wounding every 20 hours and of the reported rape offences, one every 1.6 days. And do not forget, we matured into the new crimes of abduction and kidnapping. All of us have to live here, our children have to walk the streets, they have to play; they have to grow up; they have to go to school here. What kind of society, what kind of life are we exposing them to, when they cannot even play on the pavements in front of their homes or even in their backyards—it has become so dangerous? In the face of all this, Sir, this caring administration, this Government that cares, comes with this dynamic bill to amend the firearms legislation to allow prison officers to carry firearms when they can very well do so under the existing legislation.

I am getting the impression, that bills like this one are being brought to the Senate merely for the purpose of creating an image that Parliament is in session, working. I get the impression, also, that if this caring Government had their way, they would rule by decree and they would never deign to come to this Senate. They find it irritating to do so. They want to rush through their business; put off their business as fast as they can and run back to the seats of power. Their arrogance is reeking, and the people, I think, are beginning to understand the mistake they have made.

One would have thought that anybody looking at the Firearms Act, any draftsman who is looking at this Act with intent to amend it, the very first section he would have run to would have been section 16(1) and permit me to read it, Sir—

"Every application for any licence, certificate or permit shall

- (a) be addressed to the Commissioner of Police;
- (b) be in the prescribed form;
- (c) contain the prescribed particulars;
- (d) be accompanied by the prescribed number (if any) of photographs of the prescribed dimensions of the person to whom the licence, certificate or permit applied for is desired to be granted;
- (e) bear upon it, if so prescribed, a specimen of the signature of the person to whom the licence, certificate or permit applied for is desired to be granted;
- (f) be signed by the applicant; and
- (g) be accompanied by such other documents, if any, as may be prescribed."

And section 17(1), Sir:

"Subject to this section and to section 16, the grant of any licence, certificate or permit shall be in the discretion of the Commissioner of Police."

Anybody who picked up this Act with the intention of amending it in any form or manner—if he lived in Trinidad—would have gone to those two sections first, 16 and 17, particularly in the light of the statements made by the previous Minister of National Security that the Police Service was a disaster area; and now more so, in the light of my friend running off to Scotland Yard and the Drug Enforcement Agency. I should have thought, that some effort would have been made to reduce the burden of the poor Commissioner of Police. It is a terrible burden for a single man to have, so much responsibility, especially when there are so many accusations flying left, right and centre. You tell the Commissioner of Police, "I am going to bring Scotland Yard and I am going to bring down the Drug Enforcement Agency here."

Why did you not tell him—"okay, as far as the granting of Firearm User's Licence is concerned, I am going to appoint a three-man tribunal"? Why not set

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up a three-man tribunal with a right of review? I am not saying for a moment, to arm the citizens, but it is an admitted fact that the police cannot cope. The state cannot provide adequate protection to its citizens. The state, My Lord—Mr. President I beg your pardon, Sir, I keep thinking of you as a judge. The vision is such—in fact the state has broken its sacred covenant with the people, the social contract it has in section 4(1) of the Constitution—

- "(a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of law."

The state cannot cope, it cannot protect its citizens. Let us face facts of life in Trinidad and Tobago in 1992. The citizen is, more often than not, left on his own to protect himself and his family. It was Juvenal, the greatest Roman satirist who lived some 1900 years ago, who said the immortal words: "Pone Seram cohibe: sed quis custodiet ipsos custodes"—

Mr. Sobion: English is the language of the Parliament.

Sen. Capildeo: I will not teach you the Queen's English; that is not my problem. "Lock her up, confine her." That is when they wanted to safeguard the little girls. "But who will guard the Guards themselves?" "Sed quis custodiet ipsos custodes." Yes, Mr. President, who will guard the guards themselves? I say, the time has come for the law-abiding homeowner, businessman, family man, responsible citizen to guard himself. If the state and its protective arm, the police, cannot protect the citizen, then the citizen must be given the means to protect himself, his family and his business. I repeat, because I know things have a way of being misconstrued, especially where I am concerned. I repeat: I am not saying arm the citizen; I am saying make the system of issuing a Firearm User's Licence more relevant to the dangerous times in which we live.

It is well within our technical and legal expertise to provide a system which will put the criminal behind bars and the law-abiding citizen where he rightfully belongs, out in the open. I want to quote from a report in the *Trinidad Guardian* of Monday, June 29, 1992. It is headlined "Doctors Wage War on US Gun Sickness." It is a relevant article, because we do not want to reach the position in which the United States and also the Drug Enforcement Agency people have found themselves.

As the medical men in the United States describe it, "if there was a virus epidemic it would have been declared a public health emergency a long time ago." So many Americans are being shot dead, maimed, wounded, incapacitated, that the American Medical Association has issued a statement saying if it was a virus it would have been declared as a public health matter.

We do not want to get into that. What I think we should look at are the experiences; adopt the recommendation of the American Medical Association:

"They recommend gun licenses along the lines of drivers licenses. Their owners must be of a certain age to test for knowledge and skill in using the weapon. There should be responsible use of the weapon."

3.00 p.m.

I repeat, if you are going to come to this honourable Senate, do not come with legislative trivia. Come with something of substance which affects the country as a whole today. Amend the laws, if you must; repeal the laws if you have to; tidy up your legislation, but for heaven's sake, deal with the problems that we, ordinary folk, have to deal with every day. That is to say, protect ourselves until the time comes when the state through its protective arm the police service, can protect us.

This Government has not been put there for stylistic arrogance. Even in that, they have failed. There is absolutely no style in it—absolutely none. And they are ducking the responsibility. It is becoming a sad thing to see here, week after week, that the only aura that comes across from there is: "How do we stay in power; how are we going to win the 1996 election?"

I want to close by saying, we in Trinidad and Tobago have got to find our own solutions. I refuse to believe, after 36 years, 1956 to 1992, we do not have the capacity to find it within ourselves to solve this problem and we still have to run—and my friend, the Minister of National Security will understand when I say it, more than anybody else—to Scotland Yard and the Drug Enforcement Agency. I do not accept that. I think both the United Kingdom and the United States need more help than we do. I think we know what to do. The problem is, we first have to remove this uncaring Government. I thank you, Mr. President.

Sen. Diana Mahabir-Wyatt: Mr. President, the Firearms Act, Chap.16:01 we are being asked to consider today, as the Minister pointed out, gives prison officers, in addition to the right of their weapons which they already have, the

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right to their automatic weapons and the sort of weapons which can discharge tear gas, (amongst others) grenades, bombs and other like missiles.

On the face of it, the wording of the Bill itself is fairly innocuous and I think that most people would understand that there is a need for arming prison officers, but this has to do, not just with arming, it has to do with automatic rifles and with automatic weapons and with those things which are defined as "prohibited weapons." I do not think that anybody needs reminding of how dangerous these kinds of weapons are.

Every Tuesday afternoon, when we have a meeting of the Senate, I stand here and look and I can still see bullet holes in the two end windows which have been there for some time. I believe those were as the result of firearms and most likely automatic weapons as well, because they are so high up. I can even look up above where you are sitting, Mr. President, and see bits of plaster still about to fall and wonder whether this is not also the result of the damage that firearms can do. All I have to do is to pick up the news reports which tell me of an astonishing judgment which says that an amnesty document was not signed under duress, and I remember what firearms and automatic weapons can do.

I am delighted to see that the Attorney General is here, because I am waiting, along with about 75 per cent of the rest of the country, for the assurance that an appeal against that decision is going to be filed, because we are all remembering what automatic firearms can do.

We are being asked to extend lawful use of automatic weapons at a time when the number of illegal arms being brought into this country continues to grow. I am getting just as worried as everybody else, and my colleagues who have spoken before me are also worried about this. Approximately 50 per cent of the arms which were brought in by the Muslimeen, if we can believe the reports that are before us, have still not been found; the customs officer, according to reports, who especially went from Piarco to Pt. Lisas to facilitate the entry into the country of the arms which were shipped in from Louis Haneef to the Jamaat, apparently still has not even been charged. And if the account which was printed in the *Express* of July, 12, is to be believed:

"In April of this year, smugglers unloaded 10 boxes of arms and ammunition, bullet-proof vests and several canisters of tear gas from a Venezuelan pirogue at Cedros. The shipment was transported to a Port of Spain destination one night. Security authorities, who lost the trail then, are still to get a lead on the

April arms shipment, although tear gas was reported to have been used in subsequent incidents."

Since illegal arms are coming into the country unchecked, as Sen. Muntaz Hosein was saying earlier, since we are getting to be like the wild west, perhaps we should increase the number of legal arms carriers and turn the country into some sort of a battlefield. In this context, I think the question that needs to be asked is: "Why do prison officers need to have automatic weapons?" I am not asking why they need to be armed or if they need to be armed, and I am not asking about the crowd control properties of tear gas, which are well understood, but I am much concerned about the question of the use of automatic weapons and the need to bring those in. I am not questioning the need for arms—much as I hate violence of any kind—and I really mean any kind, domestic, social, political, legal, sexual, whatever. I recognize that as long as we have a penal system that is in the sort of shape ours is, and as long as the penal reform that has been looked at in this country for so long, is not brought to pass, it is not a matter of if they need to be armed, it is a matter of the extent and why the automatic weapons.

If I could just crave your indulgence for a little while, I would like to take a look at what they are intended for, because we are told that these arms are intended for use within the prison system. That is the point I think we have a problem with, in that we have not been looking at the prison system in this country and how it operates. It has not been given very much attention because there have been so many other things, I presume, that have taken the attention of the Government. But when it comes to the practice of imprisoning people, we seem to have got the purpose of this, I think a little bit askew. The whole practice of imprisonment, apparently, is fairly recent in terms of the British legal system (which is not, in fact, where we got it from). It was only in 1842, I understand, even in the English system, that prisons took their present form, something taken over from the Americans, from the Philadelphians.

3.10 p.m.

In fact, there is a comment on this in the Abdulah Report of the Commission of Enquiry, which was appointed to enquire into the existing conditions of prisons, and to make recommendations for reform. This was published in 1980. One of the things that are pointed out in this report with respect to the English penal system, is that:

"Imprisonment was not a common law punishment. At common law, the task of judges as commissioners of the general jail was to clear the jails, not to fill them."

I think that what we have started to do is to try to fill the jails, not to clear them. If we start to look at the whole question of prison, there are four main reasons why society presumes that people should go to prison. One reason is that imprisoning offenders is one way that we protect society from the criminals—I think this is one reason that Sen. Capildeo was referring to a little earlier—and, of course, this is quite true. Secondly, offenders are sent to prison to punish them. Thirdly, to deter criminals from repeating their offences—presumably, if prison is so dreadful they are not going to do it again. Fourthly, of course, is to reform the offender.

While I think that, perhaps, in Trinidad and Tobago we do accept these four reasons for imprisonment, I do not think that we have got it quite clear in our minds as to what the order should be. Certainly, as a deterrent, our prisons are colossal failures. Some 30 to 40 per cent of prisoners at any one time—and statistics vary according to what report you are looking at—are in fact, repeaters. There are people who are repeated offenders; they come back and back and back. In fact, the enormous cost of prison—and of keeping people in our prisons—to society when we have many other things to use our tax money on, is probably being incurred because so many of the other purposes of prisons have failed so badly. I am thinking, particularly, of course, of the whole question of reform of prisoners.

I do not think that very many of the prisoners who are sent to our prisons, are, in fact, reformed; I think it is a fairly small minority. This is not an original thought. It has been said before by several other people with far more expertise than I have. It does appear that to some extent our prison serves as a kind of college of crime where a certain number of the prisoners go, learn their trade and then make a lifetime career of going in and out of prison after that.

Most of the conditions in our prisons are—with the exception of one or two—so bad that the abuse of prisoners is, I gather, fairly common, in one way or the other. They can come out of prison even more embittered, angry from the psychological and physical abuse that they get there, to the point where more embittered against society they have no compunction about committing any kind of larceny or assault.

One of the problems is that—according to this report, which was fascinating and I recommend that all Senators read it—we have had prisons much longer in our form than they have had in England. Ours started somewhere in 1545, when the Spanish were here; and the Spanish thought of prisons as being a punishment. We seem to have kept up that attitude.

As a result, our prisons are overcrowded with the exception, I believe, of the women's prison at Golden Grove. In some cases there are seven to nine men sharing a cell which was meant for one. The resultant physical and sexual abuse and other aberrant psychological behaviour which are consequent upon any type of overcrowding, from rats to human beings, is fairly prevalent. I do not think that the public has really been educated, trained or exposed to ideas of dealing with prisons other than in the context of punishment as a deterrent.

I think that it is understandable in the light of the situation that Sen. Capildeo was pointing out about the rise in crimes in the country, and the fact that we are worried to move about, worried in our own homes, that people want to wreak vengeance on people who commit crimes and therefore, they think they should go to jail and be punished. But, it does not help in the long run. It does not reform the prisoners, it just puts them there, they get out, they can do it again so that they can go back to jail and make a career of it. This, surely, is not the point of the prisons. It is not the point of trying to protect society.

I know that there is a certain percentage, and I would imagine it is as high as 30 or 40 per cent—the Minister can probably correct me on this—of habitual prisoners that are probably unreformable. They are the ones that are in and out of jail continually and, perhaps, we do need to consider them in terms of maximum security prisons and the use of tear gas. I think, though, that there is a substantial number of prisoners that can be reformed. The statistics, as I have seen them, bear no real relation to the stereotype that the society has of the person who ends up in jail.

I know that practically every prisoner that has ever existed, as soon as he goes to jail, becomes very religious and repentant. Over the last 15 to 20 years I have been dealing with—I cannot even give you the number—prisoners on death row and ordinary prisoners. I know that the minute they get in there, they start reading the *Bible* and/or the *Qur'an* and they go to services and become very holy, but this sort of holiness does not usually last for more than a day or two after they get out of jail. I think that this, perhaps, results in an overload of cynicism in the

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society but it is not their beliefs that we are trying to deal with, it is their behaviour. People can learn, through prison reform, and through reform in activities in prison, there are ways in which we can deal with this level of cynicism.

Before we look at arming prison officers with machine guns, I think that, we ought to take a look at why we want to do this. According to statistical evidence, prison reform actually does help—I am talking about dollars and cents now—in cutting down on the population of the prisons. This has been shown over and over, in report after report. Reform makes it less expensive and easier to run the penal system. It allows the state—if we can ever summon up the political will to implement reform—to improve the sometimes really primitive conditions that exist in our prisons, both for the officers and for the prisoners. I sometimes wonder how prison officers can work under some of the conditions that exist. I think that if we started to implement prison reform we would get to the point where arming prison officers with machine guns would not be necessary.

I should like to quote two brief passages from the 1980 Abdulah Report on prison reform.

The paragraphs leading up to this, and referring further on, have to do with dealing with minor offences with means other than imprisonment, for example, by community service, making people work to pay off the debts that would have been incurred:

"The Dutch went soft on criminals at the beginning of 1960'. Since then their prison population has been halved and the country's crime rate has risen by 10 per cent. Britain, with four times the population of the Netherlands, has more than 25 times as many people in gaol and our crime rate has doubled in 10 years.

While police and prison staff organizations in Britain call for tougher deterrents,..."

which I think is what we are doing here—

". .there are now only some 50 men in Holland serving more than four-year sentences. The Dutch have almost ceased to imprison women at all—there are just 26 serving sentences at the moment—"

I think we have fewer.

"and while we have a £100 million prison extension programme they are deciding which prisons to close."

3.20 p.m.

I am concerned about the amount of money which this country has to spend on upkeep of prisons and the strain which the economy is undergoing. I am sure the Minister is concerned about this as well. A few weeks ago, reference was made in this Senate, to the new prison complex which is going up. If I can refer once more to the 1980 report, because it is relevant to this question of arming prison officers with machine guns, it says at paragraph 10:1:

"It is the considered opinion of this Commission that it is always more expensive to the state, especially in today's world, to imprison offenders than to provide other forms of punishment and that imprisonment is also more expensive in terms of the damage done to human lives.

10:2: We, therefore, wish to register our profound dismay at the plans, as we understand them, to provide a maximum security prison, equipped with the most elaborate electronic system possible, to house between 500 and 800 prisoners at Golden Grove."

The report of the Abdulah Commission is a very thorough one. It takes into account and has endorsed the Seemungal Report which preceded it two years earlier, as well as the Simely Report of 1944. It is interesting to note that the report says, in reference to the 1944 report, that had that been implemented, penal reform today in Trinidad and Tobago would have been greatly simplified. Twelve years has passed since this report came out and I think those remarks are still justified. I shall not go through the recommendations in this report because we would not have time.

I am, however, requesting the Minister of National Security, through you, to report to this Senate on the implementation of prison reform which has taken place since 1980. I am asking specifically, because of the powers that the bill before us is going to give prison officers in terms of new and increased forms of weaponry. I could not get the information that I needed from senior members of the prison service who were most unforthcoming, so I have to turn to the Minister.

I understand that since this report came out, there have been improvements in terms of demands for qualifications for prison officers. Those recommendations have been accepted. I believe it is no longer a school leaving certificate; it is now three O'levels. The commission recommended five, but at least we are getting partly there. Many of the other recommendations in respect of the quality of

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people who are to be recruited into the prison service have not been implemented. The length of training is still 12 weeks—it was 12 weeks then—and they recommended 24 weeks. Nothing has been done about that. I do not know if there has been any traceable improvement in a number of the other areas.

I think that it is relevant, because this report speaks about brutality, drug selling to prisoners, exploitation of prisoners for financial and sexual favours, and other serious discipline problems among prison officers that are being faced by the prison administration. It talks about the highly confused state of the legislation that governs the management of the prisons, and the pursuit of building up—what is referred to as a paramilitary atmosphere throughout the administration, which this report—and every other report on prison reform which I could find—speaks of as being dangerous, pernicious and certainly contrary to any spirit of prison administration since 1944, and the report which I spoke of earlier.

I have to ask myself and I have to ask the Minister, whether arming prison officers, or giving them the right to use prohibited weapons, does not increase the paramilitaristic tendency which this report on prison reform, and as I say, most of the other reports, which I have been able to find, consider so dangerous to society, not just to the prisoners themselves.

I also ask the Minister to let the Senate know what measures are taken in the prisons to control the abuse of firearms, and how many of the recommendations which were quoted in the commissions report of the first United Nations Congress on the prevention of crime and the Treatment of Offenders—and these were very specific—have been put into practice?

I should particularly like to have the Minister comment on whether the system of using prisoners as honour prisoners, or orderlies in the prisons has been abolished, as was recommended in the report. One of the things which were pointed out, was the security danger in this system—there is a lot of freedom of movement—particularly where guards are going to be allowed access to prohibited weapons.

I find it very difficult to support this motion without some very clear indication as to why the extent of weaponry is needed. I understand as I said earlier, that tear gas may be necessary. I can even understand the traditional weapons which they use, but I do have a great problem with the use of automatic weapons in the prison.

Sen. Huggins: Before the Senator takes her seat, could she explain to me what is her interpretation of an automatic weapon?

Sen. Mahabir-Wyatt: It is in the Act. Is it not?

Sen. Huggins: I kept hearing her refer to machine guns in a rather ominous way.

Sen. Mahabir-Wyatt: Self-loading rifles, any firearm which once you start firing will keep on firing automatically. Do I put an "e" at the end of it? It is not defined specifically in the bill, but it was a term which the Minister used and it is mentioned on page 7 of the Act under "prohibited weapon". Prohibited weapon means "any artillery or automatic firearm". At the moment they can use firearms which are lethal or barrelled weapons from which ammunition can be discharged.

I am confused too, because the Act says "or any prohibited weapon". So, it seems to me that "firearms" which prison officers can now use under section 7 (1) (a) of the Act which says that this relates to having a firearm, includes prison officers. "Firearm" according to the Act means "any lethal barrelled weapon from which ammunition can be discharged or any prohibited weapon." The necessity for bringing in prohibited weapons, confuses me a little. I hope that the Minister will help me in my dilemma. Even if he had done so, I must say that I still do not agree with automatic weapons, which when you talk about para-militarism makes it perhaps an understatement. I do not think it is consistent with the whole spirit of reform.

Since 1944, we have been trying to develop a different attitude to prisons in our penal system and to undertake prison reform. We do not seem to be moving anywhere. As a result, we are spending more and more money on prisons. Our prisons are now overcrowded, with the exception of the women's prison. As a result the women are probably more valuable citizens, less violent and less likely to create problems in the society.

We are not dealing with this problem in the way that has been recommended in this report and in previous reports. There were four before that: the Seemungal Report, the Procope Report the Simey Report and there was another one, the name of which I have forgotten. We have not given the sort of attention necessary towards prison reform. If we had, then, we probably would not need this kind of amendment.

Thank you, Mr. President.

3.30 p.m.

Sen. Martin Daly: Mr. President, may I say at the outset that my position is the same as Sen. Mahabir's. I can sympathize with the Minister's objective in wishing to ensure that prison officers may be lawfully in possession of tear gas. I do not think one would have any difficulty in understanding whether the prisons were overcrowded, in a good state or a bad state, that that is a device which could properly find its way into the possession of prison officers. If it is that we need to amend the Firearms Act in order to ensure that tear gas is in the lawful possession of prison officers, this legislation would have my support, but it seems to me to raise many more fundamental questions about the distribution of weapons of death in the society.

I do not know what the Minister means by "the present state of our prisons," but if it means that our prisons are seething with discontent and overcrowding, then I do not think that providing prison officers with grenades, bombs or missiles is the answer to that problem. I also agree with Sen. Mahabir that penal reform is the answer to that problem. I reject totally as an answer to a threat to the prisons from within or without, the providing of grenades, bombs and missiles to prison officers.

It seems to me that if the prisons are under threat from within, then, given the confines of a prison, conventional firearms and tear gas should be enough to deal with that threat, and, of course, prison officers should have a sufficient degree of up-to-date information and intelligence coming their way to know where those threats lie. I cannot accept that because there is a threat from within, the answer is going to be to let go bombs and grenades within the confines of a prison. I just do not accept that, because, as far as I know, the prison officers are not charged with the execution of the prisoners under their control. This is what will happen if weapons, which are lethal to this high degree, are put into the hands of prison officers.

If the prisons are under threat from without, that means that we have groups within the society, which, if not revolutionary groups, are certainly subversive groups, and a threat to established law and order. The way to deal with those groups, if they present a threat to the prison from without, is by proper intelligence, first of all, to know what those groups are doing and where in the society they are targetting to do their harm. Secondly, armed threat from without the prisons is, in my view, not a matter for the prison officers at all. That is a

matter primarily for the police and, depending on the extent and objectives of those groups, a matter, ultimately, for the Defence Force. I do not accept that it is a job of the prison officers primarily to defend the prisons from these threats from without. I do not accept that those are good grounds on which to put these even more lethal weapons—if there can be degrees of lethality—in the hands of prison officers.

That is why I say that this bill raises, for me, fundamental questions about the respective roles of the various arms of the protective services. What I see this amendment as doing is equating, without regard to what their functions are in the society, each arm of the protective services. I have a philosophical problem with that. I do not accept that the weapon requirements of the various arms of the protective services are all equal.

First and foremost, as a person who has no experience of firearms, I see gradations in how these weapons should be distributed. It seems to me—and our recent history has confirmed it—that if we are under serious threat of the overthrow of our democratic institutions, that is really the business of the Defence Force and they, so to speak, should have the biggest guns of all, but we do not expect those to be deployed as part of the everyday management of social institutions, such as prisons.

It seems to me, because of the escalation both in volume and type of crime that the police service would be next in line to have weapons of an appropriate degree of response to the threats we face. I would not expect the police service to have equivalent of a cannon, because I cannot imagine what they would use a cannon for. I cannot imagine the police service would be required to have the type of flares and equipment used in the course of the occupation of Trinidad and Tobago Television, to which I had a connection at the time. There is a particular type of flare that makes much noise and sends out much light which I was told was to confuse the occupants of the premises. I do not see why the police service should have that.

3.40 pm.

The point I am trying to make is that you cannot simply say that all these weapons should be in the hands of all the different members of the protective services. I say that we have to analyse what function the particular arm of the protective services is charged with performing and what is the appropriate level of weapon allocation for that arm of the protective services.

I can see that there may be occasions where the police would certainly need automatic firearms, as they are defined in the Act. I can see that certainly the army is required to have grenades, bombs and missiles. But I certainly do not understand what the police would be doing with missiles and I certainly cannot see what the prison officers require grenades, bombs, and missiles for. I can even go so far as to see why the original Act gives a customs officer while patrolling the territorial sea a high degree of sophistication and a wide choice of firearms—because the customs officer on that occasion is protecting the country from a particular kind of threat.

Implicit in all that I am saying is that I would be far happier if it is anomalous, as the prison officer says, that prison officers cannot lawfully have in their possession tear gas; amend the Firearms Act to make that provision and that provision alone. But I cannot accept that artillery, which is defined as “...cannon, howitzer, mortar or flame-thrower”, belongs in the hands of the prison officer.

As I understand the amendment that is being made to section 6(2) it is to remove the restriction on prohibited weapons generally in relation to prison officers. As far as I can see—if I read the definition correctly—I do not see that it is the business of a prison officer, even theoretically, to have access to cannon, howitzers, mortars or flame-throwers. Likewise, as I have said, I do not think it is any business of the prison officer to have in his possession grenades, bombs or missiles.

I am very unhappy with the width and breadth of this amendment and I would seriously urge the Minister, if he wants to put tear gas or any other kind of noxious substance appropriate for quelling a prison riot in the hands of prison officers, then bring an amendment that does that. I want to emphasize: It is not simply the narrow issue of whether a prison officer should have access to a bomb or cannon within the confines of the prison. I have a philosophical problem with the willy-nilly distribution of firearms to various members of the protective services without regard to the social objectives with which they are charged.

I would urge the Minister to look at this amendment more carefully and to limit it to this piece of legislation, to what he really needs. I do not think this Minister would be so lacking in vision but, I mean what, are we going to be told next? I say this hypothetically because of the unhappy prevalence of looting in this country—which people forget started as the aftermath of fires downtown. I am sure there are Senators on the Government side who are well aware of that.

People think the looting started in 1990. Looting started way before that; it became a convention in this country to loot in the aftermath of a fire and of course it was not dealt with appropriately at that time and it mushroomed and has now become something in which everyone lives in fear.

Given that kind of background in the society, is it going to be suggested next that fire officers must have in their possession when they go to put out a fire the appropriate weaponry to repel looters? To my mind that would not be appropriate because that is not their job. Therefore, I cite that as an example of the careful thought that has to be given to the distribution of weapons to those persons who are members of the various sections of the protective services; and really if we have this kind of security problem in the prisons, if we are anticipating threats from without the prisons, if we are anticipating looting at the scenes of fires, then the job of the Government and the protective services is to work out a co-ordinated approach of how to deal with these things. But do not, in my view, provide the prison officers with more weaponry than they need.

I will not go over the very excellent ground that has been trodden by Sen. Mahabir-Wyatt on the need for penal reform, while upgrading the weaponry of prison officers. I would, however, want to voice my support for some of what has been said about amending the Firearms Act. You are amending it for this limited purpose. The population will surely ask: If you are providing arms for other members of the protective services, why do we not have an overall look at the Firearms Act? Why do we not look at the unhappiness of the population with the way in which the Commissioner of Police—without reference to any holder of the office—exercises his discretion with regard to firearms.

I can assure the Minister that there is tremendous unhappiness among people out there with who get and who are refused firearms licences. The population is sure to ask why Parliament is spending time amending the Firearms Act without looking into all these other matters.

Now, I appreciate that we must respond in precisely the same way that the weaponry and the protective services are deployed in accordance with the limited nature of the objective. I recognize that when Government brings legislation—certainly on these benches—we must respond with weaponry that is limited to the particular occasion so that I, of course, will not go into a long tirade about the other unsatisfactory aspects of the Firearms Act. But I mention what I did only for my colleagues in the Senate, to be aware that when the public hears that two or

three hours was spent on the Firearms Act today, they will say, “Oh-ho. But nothing was debated about the unsatisfactory way in which licences are given and refused?” There is an appeals tribunal now for maxi-taxis—a maxi-taxi could kill me as sure as they are killing many people, but there are many more people who have guns to kill me, and Parliament spent all this time on the Firearms Act and they did not advert to those things.

I make that reference in order to support my appeal to the Minister, that if what is really required is tear gas for prison officers, then let us amend the Act in order to provide that. I have also said, repeatedly—and that is why, Sir, with the greatest respect, I do not, as some of my colleagues, mistake you for a judicial officer. We must not turn this place into that kind of place. I am not getting into any argument about the inter-relationship between the Prisons Act and the Firearms Act. I say in passing it does not seem the best point in the world to me, but the important thing is that if I read this legislation correctly, what this is seeking to do is to put weapons of a high degree of sophistication and weapons that can do a great deal of damage to life and limb within the confines of a prison in the hands of prison officers.

If that is what is happening by this amendment, I cannot, in conscience support it in its present form, both because I think it makes a philosophical mistake in making the requirements of a prison officer the same as the requirements of other members of the protective services and because I do not think the weapons that are listed in the Firearms Act are appropriate to be within the confines of a prison at all, where the persons, for example, who are not culpable, if there was some kind of riot in a prison, are locked in a cell and cannot come out while even the tear gas—to which I am giving reluctant support—is being discharged.

This is not a situation where these weapons are going to be deployed in a time of crisis, where people have the ability to get away. You may have a riot going on in one part of the prison and perfectly innocent people are locked up in another part and a battle is being fought with weapons with a high degree of sophistication and with such alarming consequences. I always borrow from Sen. Wade Mark with care, but I say this is another occasion when his advice to cut our coat to suit our cloth is well intended.

I would appeal to the Minister to rethink this amendment to the Firearms Act and confine it to what it is the prison officers really require, bearing in mind the

great distress among people out there, about the prevalence of firearms in the society and the apparently discriminatory way in which some businessmen get licensed firearms and some have their applications turned down.

Thank you, Mr. President.

The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):
Mr. President, it was not really my intention to speak on this bill, but I feel that it is necessary, having regard to the contributions.

I am sorry that I missed the full contribution of Sen. Capildeo, but I am certain that I would be able to anticipate what he has said and perhaps deal with some of the matters he dealt with.

I have, Sir, a little concern. I know that the forum of Parliament permits the opportunity for persons to deal at length with matters which may be peripheral to the main subject matter, and perhaps it is a good thing that that is so, because I think it signals to the Government Benches what may be necessary in later course.

One of the matters which have been raised by Sen. Mahabir and by Sen. Daly is that of the role of those who are charged with detaining persons in prison. In the ideal world, I would be the first to admit that rehabilitation is perhaps the major focus of any penal system. This Government and the Minister of National Security are both very concerned with the question of rehabilitation, the question of the reform of prisoners, and we have looked at issues such as community service, *et cetera*. But we are faced with a situation in our prisons where there is overcrowding, as has been admitted, I believe, by the Independent Benches. We are faced with a situation where we have to deal with the reality of the situation.

There is no gainsaying that we have had the very recent history of attempted escapes from the Carrera Prison and other prisons. We have had escapes from prison vans on the way to and from court. I am a little surprised that Sen. Daly, whilst at the same time saying that he has no experience on those types of arms, seeks to suggest that the Minister of National Security has not given clear thought and has not had the benefit of advice from the experts within the ministry as to the requirements of prison officers.

The fact that not only Sen. Daly but Sen. Mahabir, as well, should express some degree of unfamiliarity with the nature of the weapons involved in this amendment suggests to me that serious enough consideration has not been given to what the Minister intends by this amendment.

Firearms (Amdt.) Bill
[HON. K. SOBION]

Tuesday, July 14, 1992

There is a problem in the prison system and the Minister quite wisely, and on the advice of the experts, has suggested that the Firearms Act be amended to permit prison officers to use certain types of weapons. What comes across, the feeling is that all of a sudden prison officers are going to be armed with bazookas, machine guns and running about the prisons with missiles, with a view to destroying either the prison population or the anticipated attack from outside.

Sen. Daly: Mr. President, if the Attorney General would give way. Perhaps we could save some time if he, unlike the Minister, took us into his confidence and told us what weapons, besides tear gas, the experts have advised that the prison officers should have.

Mr. Sobion: Mr. President, the point that I am making is that it has been suggested that these prison officers, as of the passing of this piece of legislation are going to be running around with machine guns, bazookas, flame-throwers, howitzers and all sorts of arms and ammunition that will somehow have an adverse effect on either the prison population or persons outside who have some interest in releasing those within the prison.

As I said, in an ideal world we should look at the question of rehabilitation. There is no question of that. There is no question that rehabilitation ought to be the main focus, but I think we would be fooling ourselves, and the population-at-large, if we do not accept that confinement is one of the major roles of the prison. People are put in prison to be kept there. They are put there to be confined until such time as the law says they shall be released.

If we have had a history of attempted escapes, whether from within the prison or when prison officers are transporting prisoners to and from court, then I think it is within the expertise of the Minister of National Security and his advisors to suggest that there are certain necessary measures.

The Minister has come with a bill and the amendment to the Firearms Act provides that prison officers should now carry prohibited weapons. It is a legal device to ensure that whatever the extent of the problem that may arise, even on an *ad hoc* basis from time to time, that prison officers can legally walk around with flame-throwers, howitzers, *et cetera*. It does not mean that as of tomorrow morning prison officers are going to be walking around with all of that kind of ammunition and equipment.

I notice the sighs of dismay coming from the other side, but the fact of the matter is that police officers, as they stand now, even before this amendment, have the right legally to carry those prohibited weapons. Are the hon. Senators suggesting that every policeman you meet on the block is walking around with howitzers and flame-throwers? Is it not that there must be some order, and the fact that a person has a right to do something does not mean that, within the administration of that right, some kind of order and discipline would not be brought to bear.

The fact of the matter is that there is a prison to run. There is the need to ensure security. There is the need to guard against any eventuality and it is important that the population-at-large understand that those involved in the protective services have the capability to deal with any possible situation which may arise.

Sen. Mahabir was the one who referred to the bullet holes in the windows of Parliament, *et cetera*, and it struck me when that comment was made that the reaction of most law-abiding persons after July 1990 was the fact that the security forces were not prepared.

The fact is that we are putting in place a measure which provides the legal framework whereby the prison officers can have the capability to deal with such a situation which we as we sit here now, may not even expect. It does not mean that in the day-to-day conduct of their activities they are going to be so armed. All it does is provide the legal capability for them to deal with a situation which we, sitting in the quiet of the Senate, may not now expect.

Let us not be caught in a situation, as we were caught in July 1990. I think it is generally accepted, coming from the Senators on the Opposition Benches and even from my good friend Sen. Capildeo, that the society is living in a state of fear, a state of tension and, up to yesterday, I saw a television programme, "Behind Bars" or some such thing. I think we are fooling ourselves if we want to adopt the approach of well, let us look at rehabilitation, let us look at reform, let us molly-coddle the prisoners, let us get things on stream in that kind of way, without realizing that we must put in place the necessary safeguards. They must be there so that there is no cause for regret at a later stage. There must be no cause for us to say, but, you know, we should have done A, B and C and perhaps one flame-thrower in Golden Grove might have quelled a prison riot which could occur six months from today.

Firearms (Amdt.) Bill
[HON. K. SOBION]

Tuesday, July 14, 1992

Mr. President, the whole object of this bill is to ensure that the legal framework is put in place, and I want to assure Senators Mahabir-Wyatt and Daly that it is not a matter of hysterics at all. I think it is a prudent move on the part of the Minister to put in place the kind of assurances that the society itself is crying out for. We will be putting in place a system whereby prison officers will feel confident, that having regard to the overcrowding in the prisons that if there was an unexpected event, they know that they are on top of the situation. That is all that is being done here. There is nothing sinister about it.

It is protection for the society as a whole. It is not a question of whether we are opening up firearms to undesirable people. There is no question of that. These are people charged with the responsibility of securing the criminal element in the prisons. Are we going to deny them the wherewithal to perform that function at top capability as has been advised by people who know about national security? Is that the point that we are making?

Are we saying to the population that we are not happy with arming prison officers because they may somehow run amok? Or are we saying to the population by this amendment that we are ensuring that one of the primary purposes of the prison system, which is confinement, is to ensure that prison officers can perform their role adequately? That is all we are doing by this amendment.

There is a system within the protective services whereby these arms and ammunition are going to be used by prison officers with expertise. Sen. Mahabir-Wyatt talked about machine guns and automatic weapons. There are no weapons that fire automatically after you press the trigger, you know. The fact is that there are types of arms and ammunition that will be available to the prison service and will be used within the orderly discretion of the person in charge of the prison service. It is not an everyday thing. It is a question of ensuring that we shall be able to deal with any eventuality which may arise.

I take the point raised by Sen. Daly. I think it arose out of the fact that, as he confessed, he is not an expert on arms and ammunition and I may say that I, too, am not such an expert so therefore I defer to those who have that kind of expertise. We must remember, as well, that the prison officers operate in close confines. They also operate as perimeter guards and there is the need for them to have a varying kind of capability in dealing with that situation. So a person in close quarters, for instance, will not necessarily be armed with a flame-thrower. A person operating as a perimeter guard may be the person who will be so armed.

Let us give the experts their due and when we sit here, we do so as a body which reasons, which looks at the legislation. And I think we must also be aware of the fact that we are not all-round experts, experts in every area. I think it is important that we recognize that and accept the fact that there are persons who are there to advise the Government and the country as to what is required. It is important that we recognize that particularly in matters of national security.

I want to emphasize that there is nothing devious about this place of legislation. It provides the country with a certain degree of assurance that matters of national security are being catered for. It provides the Minister of National Security and those within the protective services with the clear understanding that they have, by legislation, the capability to deal with any situation which we may not now anticipate.

So whilst I share the concerns of Sen. Daly and Sen. Mahabir-Wyatt, I want them to understand that there is an administrative way of dealing with their concerns. Persons inducted into the prison service are inducted after a series of tests, interviews, and then they are provided with a period of training.

Sen. Mahadeo: Mr. President, taking up on the last few words of the hon. Minister as to the testing and screening and all this sort of thing before prison officers are appointed to take up duty, I am wondering aloud whether the hon. Minister is aware that over the last two weeks there have been letters in the newspapers and articles where the Commissioner of Prisons is reported to have said that there are quite a number of delinquent prison officers and corrupt officers within the prison service.

Hon. K. Sobion: Mr. President, I appreciate the point raised by Sen. Mahadeo and I think that when I began my contribution, I said that if we lived in an ideal world then we would not be here debating certain problems.

The point I was making is that in order for one to be inducted into the prison service, there is a regime of training and investigations which are done. The fact that there may be delinquent prison officers merely underlines and underscores the fact that we do not live in an ideal world. But what does that mean? Does it mean that because we have one or two rotten apples in the barrel we must not provide the kind of security which is necessary? The fact is that there is a procedure, and even whilst there are disciplinary procedures which take place, there is a continuous review of what happens.

4.10 p.m.

The fact is that we do not live in an ideal world. If we needed 100 prison officers and we were to feel that we are going to get 100 perfect prison officers tomorrow morning, then I think we would be fooling ourselves.

Quite apart from the fact that we do not live in an ideal world, it is necessary—we do not have an ideal Opposition—the fact of the matter is, that we have to put in place the necessary measures to deal with the security of the nation. And I think we as Parliamentarians will be failing in our responsibility to the country if we were to become paranoid by what is, really, a piece of legislation which goes towards that end. We have to administer it afterwards. It will be administered. It has to be administered.

But the fact of the matter is that the legal capability must be put in place for our prison officers to secure prisoners in prison and ensure that people in Trinidad and Tobago could live a little more comfortably. I think that I would not be wrong if I were to say that all the Senators on the other side, certainly, have that as a prime objective—that there is some degree of security in the nation of Trinidad and Tobago.

So, Mr. President, while I was not here to deal with this particular bill, I felt it necessary, having regard to the contributions, to make those few observations and ask Senators on the other side—whilst we understand their reservations—to support this bill and demonstrate to the population at large that we in this Parliament are concerned with our security.

I thank you.

Sen. Daly: Well, he has taken his seat, Mr. President, but I was going to ask the Attorney General why he is treating me so badly today and ignoring me. I wonder whether he would tell us which in this range of weapons the experts have advised that prison officers should have. If he discloses that, then we may be able to think again.

Sen. Carol Merritt: Mr. President, I thank you for the opportunity of speaking on this important bill, the Firearms (Amdt.) Bill. If the Minister had taken time to be a little more specific and explained what type of firearms they were thinking of issuing to the prison officers, there would not be so much conflict in the interpretation of what we have before us. I think in bringing this type of legislation, which is very serious in these times, he should go into a little

more detail, be more specific in outlining what is really before us, and not having people coming here and interpreting the bill in their own way.

I also feel that the Government are not really serious in making these amendments. If they were, they would have brought a simultaneous bill to deal with penal reform, because the state of our prisons at present is a concern that is being expressed by the majority of citizens who have had the experience of what takes place within the prison community. These are my main points. I hope Mr. President, that the recommendations I make here will be taken in good faith and be seriously looked at.

The inclusion of conventional firearms. Before I go into the Act to see what a firearm really is, I did not feel that the Minister of National Security, in his sanity, would have thought of issuing things like grenades and bombs to prison officers. I thought that it was conventional firearms he was speaking about in the Act. The inclusion of conventional firearms for prison officers is long overdue, when you take into consideration the fact that our prison institutions are bursting at their seams with some of the most violent criminals that our twin-island state has ever seen. It is generally understood that the real perpetrators of the heinous crimes at present committed are not being brought to justice.

It is with utter amazement that I view the blatant disregard the political directorate have for prison officers, the men and women who have to work round-the-clock to keep the society safe from convicted criminals. When one takes into consideration the overcrowding at the various prisons and no improvements in the system so far to benefit both inmates and officers, one might have to say that we have decent convicts within our prison system, because no major riot or uprising has taken place, as yet, in our country within the prison community.

Due to the utterly bad conditions that exist in the prison system, numerous persons have expressed their concern about the critical problem of overcrowding and understaffing. We have to note that there were some incidents of attacks on officers and increase in escapes over the last three years. But I also note that these incidents are minor when we take into consideration the major problems in the prison system.

The Royal Gaol was built 80 years ago to accommodate 110 prisoners. Its population to date might be—note that I said might be. I am not too sure about the figure—over 900 inmates. Similarly, Golden Grove was built to accommodate

430 inmates. It now has approximately 1300 inmates. Also the Carrera Prison was built for 185 prisoners, but at present there might be over 500 inmates.

I will use this opportunity, Mr. President, to recommend to the hon. Minister of National Security that he should revise the system for the transfer of prisoners from Carrera to the mainland, because there seem to be some concerns expressed by the officers on this matter.

I would readily agree that prison officers should be given arms because this will put them in a better position to man the prisons more effectively, but the mechanism must be put in place to implement the issuing of these firearms. I recommend that alleged delinquent officers be investigated and scrutinized closely and that they not be issued with any firearms until the Commissioner of Prisons and his team are sure that the officers have a clean slate. Because we have to prevent any corrupt officers from having access to firearms and ammunition to hand over to convicted criminals for a price—and I stress this. This will only endanger the lives of their fellow officers and the society at large.

Also, in providing prison officers with firearms, these officers will have to be now precepted. I understand—I am not too sure—that prison officers are not precepted, but the new order will further enhance their capability as officers within the security system of our country.

They will now have to be trained in dealing with the public at large, because they are now allowed to carry firearms. Let these officers know that the purpose of carrying arms is to protect life and property. I only hope that the officers will be issued with modern type of firearms, because we all know of the sophisticated weapons being brandished out there by the drug barons and their henchmen.

4.20 p.m.

I would also recommend that the system of issuing arms within the prison system be revised, because I understand that at present there is a limited supply of firearms at each prison which are issued by the supervisor on duty to the sentry officers and officers assigned to transfer prisoners to court, or from one prison to the other. With the new supply of arms, there should be proper logging in and out of the arms and this should be monitored closely. Maybe, in due course, the system should be computerized to keep track of the movement of arms within the system, so we would not hear that arms are missing everywhere. That is serious in these times.

I must ask the Minister whether his Ministry plans to purchase new arms. I have not seen any allocation for this purpose in the *Draft Estimates of Expenditure for the year 1992*. Where is the money coming from? I also hope that he is not going to take it from one sub-head and put it into the prison system.

At present, when prisoners are being transferred from one prison to the other, there are only two drivers and two sentries, with about 15 or more prisoners in a dilapidated vehicle. I understand there is some plan—I do not know whether it is carried out already—to purchase new vehicles for the prison service. I hope this would be done quickly, because what exists is hampering the performance of prison officers. This is a security risk, because during these transfers, the prisoners are exposed to the public at large, and all kinds of sinister things could happen when the vehicle stops in slow-moving traffic.

I mention this, because I, personally, stayed in my office in 1989 and witnessed a prison van transporting prisoners from Port of Spain to Golden Grove on the Churchill-Roosevelt highway, and as they stopped at the intersection by Pasea Main Road—the police van was in front and the prison vehicle was behind—there was a loud explosion and prisoners were running all over the place. Some went up Maraj Street, some up Pasea, some down in the man-hole. There were not sufficient men there to recapture all these prisoners who were just running all over the place. There were not many arms available either for the officers to protect themselves and the community.

I cannot speak on this bill and not delve a little into the root cause, why we have so many inmates overcrowding the prison at present: The socio-economic crisis brought on by structural adjustment implemented in 1985. Due to this crisis, more of our citizens were lured into criminal activity. The unprecedented upsurge in violent crime in Trinidad and Tobago is testimony to the fact that the Government of the day are lapsing where security is concerned. They are not serious about curbing the escalation of violent crime in the country, although I am seeing all kinds of big plans bandied about in the print and on electronic media, by the Minister of National Security to deal with the crime situation, for example, his visit to Scotland Yard and the Drug Enforcement Agency in the United States. I can tell you, America and the United Kingdom are in a worse state than we are—I have to take my brother's point. Every minute, every hour, there are deaths and robberies and drug-related killings in the United States.

It would seem that all the plans which were bandied about on the electronic media and in the print media, were just a public relations gimmick to try to lull the innocent citizens into a false sense of security, because in the last five weeks the crime rate has escalated further. More drug-related crimes, very gruesome murders are taking place all over this country and no arrests have been made, so far, for these heinous crimes. The Government is very silent on the issue, and those heinous crimes were committed within the last five weeks. The main culprits who are responsible for all the crimes, such as robberies, kidnappings, drug-trafficking and murders, continue to live scot-free in their luxurious homes, very much protected. I stress that. It is an outrage.

Too many mistakes are being made in our country at present, from the last regime to this present regime. There were mistakes in preparing documents for legal matters. *[Interruption]* We are living in a mistake. The kind of scenario which has come upon us is really frightening, where, not only senior citizens are considering locking themselves up in their homes after 6.00 p.m., but also young people are scared to pursue their various hobbies too far away from home, lest perhaps they get caught in some cross-fire of a hit-man and drug pushers. There are real arms out there, for example, the Uzis, the AK47s and 9 millimetres. Our police force do not even have those as yet.

I have to emphasize the crime situation, because this is what is causing our prison system to be so burdened and overcrowded. The crime rate in Trinidad and Tobago has escalated out of control. Law abiding citizens of this country have become victims of violent and malicious attacks, both in the privacy of their homes and in their business places. Maybe, we need to try to get some firearms for businessmen and certain other citizens. I am not advocating that "free man is a slave if he does not have a gun at hand," I am not on that. But I want people to protect themselves, so we need the firearms, not only the prison officers.

Notwithstanding the fortresses which we have been forced to erect around us in order to protect our person and property from the criminal element, we are no longer safe in our homes. Burglar-proofing provides no impediment to the lawless persons and properties are savagely ravaged. All over Trinidad and Tobago people have had to change their lifestyles out of fear of being robbed, raped, maimed or even killed. If we attend a concert or so, we have to ensure that our tape decks are hidden in our car trunks. Even so, we have no guarantee that they will be still in place. These attacks—or the threat of being attacked—have generated a deep

sense of fear, anxiety and insecurity throughout the population. We are afraid to venture outside our homes, because of the possibility of being robbed or gunned down. We are virtually under siege by the criminal element. We, the law abiding citizens of this country, have been made prisoners in our own homes, while the perpetrators of crimes have been allowed to roam freely to do as they fancy, and to our detriment.

Mr. President: How many pages do you have left?

Sen. Merritt: I think I need another ten or fifteen minutes.

Mr. President: The sitting is suspended for half an hour. The Senate will resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. C. Merritt: Mr. President, the present situation is further intensified by the heinous nature of many crimes committed and the vicious attacks on innocent citizens with many unexplained drug killings in Trinidad, over the past six months—killings and Mafia-style executions which truly indicate that the drug cartel is here. Kidnappings, hitherto unknown in this country, have become a way of life. Therefore, the Constitution of the Republic of Trinidad and Tobago which enshrines the rights and freedoms of citizens and guarantees us the protection of our right to life, liberty and security of the person, is clearly being violated and trod.

This precarious situation is worsened by the inability of the protective services to effectively institute any measures to combat this crime-curse, which would alleviate the fear, sufferings and traumatization of our population. Indeed, the service is plagued by a phenomenal degree of demotivation and absence of morale and the work ethic; exasperated by the chronic shortage of vehicles, equipment and manpower which when taken holistically have a debilitating effect on the capacity of the protective services to combat and control the disease of crime.

Mr. President, this can clearly be illustrated when one examines the prevailing situation in the Southern Division where there has been a virtual shut-down of the protective services, reflected in the absence of the Robbery Squad, the Narcotic Squad, the Vehicle Squad, Fraud Squad, and bomb experts.

Firearms (Amdt.) Bill
[SEN. MERRITT]

Tuesday, July 14, 1992

This state of affairs is rampant throughout the country where the efficiency of the protective services is severely compromised by inherent deficiencies which, when coupled with the uneven distribution of police services throughout the country, serve to cripple any attempts to solve crimes, especially when one takes into consideration that only 25 per cent of all crimes committed are reported.

This brings me to the situation, again, in the prison service. The cramped situation is further aggravated by the overcrowding of the nation's prison and the paucity of prison officers, leading to increased pressures on both the prison officers and inmates.

In such a scenario the UNC is of the view that the fight against crime must take place at different levels in the context of the problems of the wider society. It must include measures to deal with crime prevention and crime detection, the training of police and prison officers as well as the improvement of their working conditions, bringing up to date the backlog of cases, and instituting prison reform very effectively.

I recommend that we need to look at the whole criminal justice system. We should examine alternatives to imprisonment for petty offences, and some emphasis should be placed on rehabilitation in the system. I advocate that prison officers be given, not only firearms, but also all the necessary tools to enable them to perform their duties effectively, but the mechanisms must be in place to deal with this new phenomenon.

Thank you, Mr. President.

Motion made and question proposed, That the Senate do now adjourn to Tuesday, July 21, 1992 at 1.30 p.m. [Hon. L. Saith]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.05 p.m.