

Leave of Absence

Tuesday, February 9, 1993

SENATE

Tuesday, February 9, 1993

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 Sen. Everard Dean to be absent from sittings of the Senate during the period February 9—13, 1993.

LATE ARRIVAL

Mr. President: Senators S. Capildeo and Pundit R. Gosine have indicated that they will be a little late for today's sitting of the Senate.

SENATOR'S APPOINTMENT

Mr. President: I have been advised that His Excellency the President has appointed Mrs. Nirupa Oudit to be a temporary Senator with effect from February 9, 1993 during the absence from Trinidad and Tobago of Sen. Everard Dean.

OATH OF ALLEGIANCE

Sen. Nirupa Oudit took and subscribed the Oath of Allegiance as required by law.

AMARJYOTH SABHA (INC'N) BILL

Bill to incorporate the Amarjyoth Sabha Organization and matters incidental thereto, brought from the House of Representatives [*Sen. Salisha Baksh*]; read the first time.

PETITION

**Sri Sathya Sai Baba Organization
of Trinidad and Tobago**

Sen. Prof. John Spence: Mr. President, I wish to present a petition on behalf of the members of the Sri Sathya Sai Baba Organization of Trinidad and Tobago, who are desirous of constituting their organization into a corporate body by a private bill.

I now ask that the Clerk be permitted to read the petition, and that the promoters be allowed to proceed.

Petition read.

Question put and agreed to, That the promoters be allowed to proceed.

PAPERS LAID

1. Report of the Auditor General on the Accounts of National Flour Mills Limited for the year ended December 31, 1989. [*The Minister of Planning and Development (Hon. L. Saith)]*
2. Report of the Auditor General on the Accounts of National Flour Mills Limited for the year ended December, 31, 1990. [*Hon. L. Saith*]
3. Report of the Auditor General on the Accounts of the Management Development Centre for the year ended December 31, 1990. [*Hon. L. Saith*]
4. Report of the Auditor General on the Accounts of the Trinidad and Tobago Export Development Corporation for the year ended December 31, 1991. [*Hon. L. Saith*]
5. Report of the Auditor General on the Accounts of the Government Employees' Provident Fund for the year ended December 31, 1989. [*Hon. L. Saith*]
6. Report of the Auditor General on the Accounts of the Government Employees' Provident Fund for the year ended December 31, 1990. [*Hon. L. Saith*]
7. Report of the Auditor General on the Accounts of the Government Employees' Provident Fund for the year ended December 31, 1991. [*Hon. L. Saith*]

ORAL ANSWERS TO QUESTIONS**School Feeding Programme**

38. Sen. Muntaz Hosein asked the Minister of Education:

- a. Can the Minister give the names of the contractors to the School Feeding Programme and the number of meals per day each is contracted to deliver?
- b. Can the Minister give the names of those contractors who failed the School Feeding Programme pre-qualifying examination prior to tendering?

The Minister of Education (Hon. Augustus Ramreakersingh): Mr. President, the answer to Part (a) is as follows:

There are 63 contractors who were awarded contracts by the Central Tenders Board to provide meals to schools under the School Feeding Programme. The Programme supplies school meals to 457 primary schools in Trinidad. Meals are served three times weekly—Mondays, Wednesdays and Fridays. The targeted daily supply is 58,000 meals. However, contractors were contracted to supply not

a fixed number, but a range, say, from 300-350, for example, at a fixed price per meal. The lowest range is 300-500 and the highest, 1,000-2,000. In this way there is flexibility in case a school is closed for a day, or any given contractor, for whatever reason, is unable to supply.

Contractors were assigned schools within a reasonable distance of their point of production, so as to ensure that meals arrived at schools within a stipulated period and in wholesome and palatable condition. They are required to supply hot meals. A list of caterers who were awarded contracts is available to hon. Senators.

1.40 p.m.

Mr. President, if I may, I ask one of the orderlies to take this to the Table.

Document passed.

Vide end of sitting for list of caterers.

Hon. A. Ramrekersingh: With respect to part (b) of the question, to the best of my understanding, no contractor was permitted to tender if he could not pre-qualify. The kitchens of prospective contractors seeking pre-qualification were inspected by the public health authorities and by food service officers of the School Feeding Programme. Where these met the requisite standard, the applicants were invited to tender. I should mention, it was the first occasion on which this exercise was done through public tender. The exercise was managed by the Central Tenders Board.

In respect of those who failed to pre-qualify, it is not the policy of Government to give such information on private citizens.

Sen. M. Hosein: Mr. President, is the Minister aware that there are two caterers who have been given contracts who had failed the pre-qualifying examination?

Hon. A. Ramrekersingh: Mr. President, the hon. Minister is not so aware. I said, "to the best of my understanding". I wish to state that the Minister did not involve himself in any activities involving the awarding of contracts by the Central Tenders Board.

The following questions stood on the Order Paper in the name of Sen. Muntaz Hosein:

**BWIA
Wet Lease Arrangement**

- 39.** Can the Minister of Trade, Industry and Tourism give the following information regarding BWIA's Wet Lease Arrangement:
- (i) The name of each lessor?
 - (ii) The number of planes leased?
 - (iii) The cost of each contract?
 - (iv) The duration of each contract?

**Printing and Packaging Company
(Income and Expenditure)**

- 40.** Can the Minister give the income and expenditure of the Trinidad and Tobago Printing and Packaging Company for the six-month period prior to the sale of the company?

The Minister of Trade, Industry and Tourism (Sen. The Hon. Brian Kuei Tung): Mr. President, I have sought and obtained the consent of the hon. Senator to have both questions 39 and 40 deferred for one week. In addition, I have indicated to him that question number 40 should really have been addressed to the Minister in the Ministry of Finance, the hon. Kenneth Valley. I have so informed him and he will be prepared to answer that question next week. I have also informed the Clerk of the Senate.

Questions, by leave, deferred.

SENATOR'S WELCOME

Mr. President: I welcome back Sen. Deodath Ojah-Maharaj to the Senate after his brief illness. He gave us a little scare but we are glad to see him back.

POLICE COMPLAINTS AUTHORITY BILL

[SECOND DAY]

Order read for resuming adjourned debate on question [February 02, 1993]:

That the bill be now read a second time.

Question again proposed.

Sen. Martin Daly: Mr. President, the Police Complaints Authority Bill 1993, has come before the Senate at quite a dramatic time, as it turns out. Indeed, some

of the contributions that were made by my colleagues, for example Sen. Everard Dean, have turned out to be prophecy. It underlines the importance of a thorough debate on these measures.

As will be apparent from most of my colleagues who have spoken before, there appears to be qualified support for this Bill, and I have asked the Clerk of the Senate to circulate certain amendments in which I am attempting to do two things: First of all, incorporate some of the suggestions made by my colleagues and, secondly, to bring, what I hope would be, a better balance to the Bill, because I think that in the passage of this legislation we have got to be very conscious of two things: First of all, however concerned we may be about events outside the walls of this Chamber, we have got to take a balanced view of everything and not go overboard. Secondly, I think we need to recognize that police officers are particularly vulnerable to false or trumped-up allegations.

It is very easy to understand that they are frequently in confrontation or litigation with members of the public, and they will seek, as one form of revenge, to bring trumped-up charges against police officers. That is one of the matters which have informed the amendments which I have circulated and which the hon. Minister has been good enough to indicate will receive a great deal of favourable consideration, for which I thank him.

The other thing which I have tried to do in the amendments which I have circulated is to make this Bill provide more meaningfully for complaints that are made against officers above the rank of Assistant Superintendent. Because it seemed to be that the Bill, as it was presented to us, basically focussed on the lower ranks and did not contain any provisions for complaints against senior officers. When I was given the hint by the contribution of Sen. Capildeo to look at the corresponding English legislation, which is the Police and Criminal Evidence Act of 1984, I observed that specific provision was made for the investigation of complaints against senior officers, and I felt fortified in my conclusion that this Bill should cater for that.

I also noted, with interest, in relation to accountability, that the reports of the authority in the United Kingdom are laid before Parliament, through the Minister, and I noticed that in the list of amendments circulated by Sen. Wade Mark, he has adopted that position. My amendment on that is basically similar, except that I have provided another safeguard for police officers. I am suggesting in my amendment that the reports that are brought to the Parliament, should, at the discretion of the authority, exclude the names and other particulars which might

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identify the policemen against whom complaints are made. Because if the report, for example, is going to follow the form used by the Ombudsman, which I hope it would in general terms, it would mean that even where a trumped-up charge is dismissed as completely frivolous by the authority, the particulars of that trumped-up charge might find their way into the record of the Parliament and ultimately, for dissemination, and perhaps, as well, protected by the privilege that attaches to a report of these proceedings, disseminated to the detriment of the police officer concerned.

1.50 p.m.

Mr. President, I subscribe to the view that we have no cause for alarm about the vast majority of our police officers. We have a very serious “bad egg” situation, to which I will advert in the course of my contribution, but I think in our zeal and enthusiasm to go after the “bad egg” situation, we must keep a sense of proportion and protect the rights and reputations of police officers who are vulnerable to false charges. I think it is, perhaps, a sad commentary on some of the people who represent policemen that these amendments, which I am proposing for the safeguard of the reputations and rights of police officers, have basically been inspired by conversations I have had with policemen that I meet in the street or on duty in various places where I work. They are all following this with great interest, and as far as I can see, with great objectivity. I am heartened to say that I claim no particular credit for some of these amendments that protect the rights of police officers. They are simply as a result of conversations that concerned officers have had with me. That also fortifies me, in my conclusion, that basically we must take a balanced view of the problems, however serious they are.

Mr. President, my first amendment about the annual reports to Parliament and the anonymity of the names of officers is self-explanatory.

The second amendment, was inspired by the contribution of Sen. Dean, but I am prepared to accept that the Minister may require a greater degree of flexibility so if that is his position—that one at any rate—I will not pursue.

I also have great anxiety—while we are on the question of protecting the reputations and rights of vulnerable police officers—with the complaints machinery, and I think it is important that it be made confidential. To that end, Mr. President, I am introducing an amendment, the result of which will be that it will still be open to a member of the public, if he does not wish to journey to Port-of-Spain—or wherever the Authority is located—to physically deliver the complaint to the officer in charge of the local police station under confidential

cover and, subsequently, will receive the certified copy which will be the official acknowledgment of his complaint. I am very, very concerned about the confidentiality of a report that is made to a local police station.

Hence, I have tried to specify that where that happens, one should have the option of either going to the Authority directly, or one can go to the officer in charge of the local police station and make a report under confidential cover, and remove the responsibility of giving the certified copy from the local policeman, so he does not have to see the complaint that is being made. I think that is a very important amendment. Because, I will emphasize again and again, that we must take a balanced view. However upset we are about certain things, we must take a balanced view, and that is why I have inserted a new subclause providing the responsibility on the Authority to send a certified copy.

Mr. President, I also think it is important to make explicit that so soon as the complaint is made, in order to protect his rights and reputation, the police officer complained against, must receive notice of that complaint and be given an opportunity to give an explanation in writing. I have borrowed those provisions from the analogical provisions of the Police Service Commission Regulations.

Finally, Mr. President, I have sought to introduce a clause which would enable this Authority to deal, as well, with complaints against senior police officers. As a matter of good housekeeping, I must point out that there is a typographical error—the fault is mine—in the second line. The first two lines read:

"and where a complaint is made against an officer of a rank higher than the Head of the Division..."

add the words " the Commissioner shall"

"after consultation with the Authority, appoint an officer of a rank higher than the officer against whom the complaint is made, to investigate the complaint in accordance with the provisions of this Act."

As I have indicated, Mr. President, that is somewhat analogous to the provisions of section 86 of the Police and Criminal Evidence Act of 1984.

Mr. President, it will of course be apparent, from the fact that I am proposing amendments to this Bill, that it has my support. It has my support for three reasons, two of which I think require, if I may say so respectfully, some further articulation.

The first reason why I give my support to this Bill, is that I accept a major proposition of the Government, which is that it will provide a vehicle which will

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give the ordinary citizen the ability to make a complaint where necessary, hopefully in comparatively rare circumstances. It is also a measure which will assist—because people can now have a formal machinery whereby they can make complaints—as I have emphasized under confidential cover—in restoring public confidence in the police service. I accept those reasons which have been advanced by the Senators who have spoken from the Government Benches.

Mr. President, I keep coming back to the debate about the Police Service Commission, and the second reason why I support this Bill is that I think, if properly used, it will provide support to the work of the Police Service Commission.

Now, I am astounded, and, therefore, seek to locate my support for this Bill in the context of our constitutional arrangements for the service commissions. I am astounded that journalists, commentators, even some of my colleagues, do not seem to appreciate, as yet, that the Government, whoever they are, in this country, unless and until we change the Constitution, have limited executive responsibility for the police service. I think that the debate about what is taking place in relation to the police service will go completely awry unless that is clearly understood.

Mr. President, you know my wish to always locate myself geographically here rather than over there. But, at the risk of going halfway across the road, I want to just emphasize that it has been definitively determined that the functions of the Police Service Commission fall into two classes:

"Firstly, to appoint officers to the police service, including their transfer, promotion and confirmation of appointments. And, secondly, to remove and exercise disciplinary control over them."

I repeat: secondly, to remove and exercise disciplinary control over them".

It has also been definitively determined that removal can only be for reasonable cause, and of what is reasonable cause, "the Commission is the sole judge." I emphasize that: "the Commission is the sole judge".

Now, Mr. President, these are quotations which I have taken from a well known case of Assistant Superintendent, as he then was, Endell Thomas, a case which I took to the Privy Council in 1982. In fact, further on, in their consideration of the matter, the Privy Council, from which I am quoting, emphasized that:

"...the only person who can remove an officer from the police service against his will and the only person who can conduct disciplinary proceedings against a policeman is the Police Service Commission."

Unless that is properly understood by the commentators, this whole debate about how to deal with the police service is going to go awry.

2.00 p.m.

The Government have a limited executive responsibility. By far the greatest executive responsibility for the operation of the police service lies with the Commissioner and the Police Service Commission.

Another reason why I support this Bill is that it does not trespass on the sacred territory of the Service Commissions. But if properly used as I have said, it can be an adjunct to their work because these complaints when well-founded from members of the public, will stimulate the Police Service Commission into taking the appropriate disciplinary action, if necessary. I have the greatest regard for the Commissioners of the Police and the Public Service Commission.

I must say, however, speaking as an ordinary citizen, that there are times when it seems that they are in need of some stimulation. I would go so far as to say that when certain notorious events take place, it is not necessarily the business of the Commission to wait on somebody to bring a matter. The Constitution specifically provides that when they become aware of an act of indiscipline certain things can take place.

I urge the service commissions to lend an ear to the public mood. I would have very great difficulty, until I see it at any rate, in supporting any legislation that is going to alter those arrangements. What I recommend to the Government, as the next step in this matter of reform in the police service, is that we dust off the report of the second Constitution Commission and seek to implement the recommendations that are made in there concerning the service commissions, particularly, in relation to a permanent disciplinary tribunal. If this Bill stimulates a greater degree of discipline over the police service it is all going to come to naught if the administrative machinery is defective or too slow. We have had two Constitution Commissions as I have said in a previous debate; they have both concluded that the arrangements for the service commissions should remain with certain recommendations to make them more efficient.

I implore the Government to take a look again at chapter 13 of the Second Constitution Commission Report and put into effect the recommendations that are

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made there, so that much of the public disquiet that nothing is happening with the disciplinary machinery and it is too slow, will be met. That will be consistent with the Government saying to us that one of the purposes of this Bill is to restore public confidence in the police service.

Mr. President, I support this Bill because if properly used, it will be an adjunct to the powers and responsibilities of the service commissions. I think that is very important because, for the reasons that I have said, it seems to me that sometimes these commissions require a certain stimulation. While I appreciate that there has been a dramatic exchange of correspondence between the Minister, on the one hand, and the Commissioner on the other, Mr. President, we are really wasting much of our time.

If we are serious that some action has to be taken in relation to the events of last Friday, if I were a service commissioner, I would simply open my newspapers and tick off the heads, and then, get access, if I could, to video tapes of the news and freeze the frames. Then I would go to the Commissioner and say, "Can I have the names of these gentlemen, please? I wish to look into this matter". I think it is very important that we proceed in a common sense way. All this correspondence is all very interesting—and at the end of the day—because of our constitutional arrangements the Government of the day, whoever they are, are left hanging. They can only say, "we have taken these steps, we have tried to stimulate these enquiries," and, thereafter, everybody comes to the conclusion that nothing is happening. I repeat, that nothing of what I am saying is to be construed as personal criticism of the commissioners. I think we have got to look again at how these service commissions work. And since the Constitution Commission has told us what to do, let us follow it and implement its recommendations. It is no point everybody getting hysterical and trying to throw constitutional rights and safeguards of the average citizen out of the window. We have got to work with the machinery that we have. There is a high-powered commission which made certain recommendations about how this thing has got to work. Unless we understand where the respective responsibilities lie, as it is said, colloquially, we are going to be "spinning top in mud"

Mr. President, I also support this Bill because it is the modern trend generally that complaints authorities have a lay element or an element external to the body that is investigating the complaint, whether it is to deal with lawyers, accountants or doctors. Generally, world-wide there is acceptance at present if only for justice to be seen to be done that you have a lay element. So a properly appointed set of

members of this authority can do a great deal even just as a deterrent in seeing that complaints that are reported are going to be properly supervised and dealt with including, I emphasize, the frivolous complaints.

Those are some of the reasons why I support the passage of this Bill. I am trying I hope, not in a repetitive way, to make the point that there are other things that have to be done, urgently.

There are some other things that arise in relation to this piece of legislation which, as I indicated earlier, have been touched on by some of my colleagues in a prophetic way. I would just like to identify them sequentially as they sit next to me. Sen. Dean, my colleague, who is absent today, warned prophetically of the dangers to the society of frustration in the police service. He actually predicted in terms events that have subsequently taken place.

Sen. Teelucksingh made the point about frustration in the police service and I want to identify with that. It is no good bringing more legislation to reinforce the standards of the police service if the officers are going to be frustrated by lack of equipment, plant and machinery and proper facilities.

I know there are Members of the Government who get very impatient with me when I say repeatedly, the two issues in this country are jobs and crime. But those are the two problems confronting us and no amount of manoeuvring is going to get us out of that. We have got to make up our minds. As I have said before, it is no good Trinidad and Tobago being the financial capital of the world, and everyone is sitting on top of the twin-towers counting the country's money, and there is blood and injustice in the streets. That makes absolutely no sense.

That brings me to the contribution made by Dr. St. Cyr, with which I would also like to identify, on how we will have to deal with some of these problems of discipline in the society.

What is so important about Sen. Dr. St. Cyr's contribution is that we have got to do something about standards in the society generally. He also raised the point about moral authority.

Much of this Bill is about moral authority. It does not matter how perfect your legislation is. If those administering the legislation are perceived to lack moral authority then it is going to be very difficult to enforce legislation. I suppose that everything cannot be sweetness and light.

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I say that if there is going to be follow through by the Government on matters of public disquiet—and I do not mean to be dramatic about this—then, there are two more things in connection with moral authority, and the moral authority that underlines this Bill that the Government has to take another look at.

I was not present when the legislation was debated but I am overwhelmed by the reaction against it. I think we have to take another look at the salary increases to parliamentarians. I am not concerned about the senior civil servants. I am not concerned about that because I do not know whether the people are particularly upset about that. I hear Sen. Kwabene saying that all the time people stop him in the streets and say, “all yuh fix yuhselfes”. If we are really starting afresh and we are going to instil discipline in the society, then we have got to have a high degree of moral authority in Government.

2.10 p.m.

I think that is one matter where public disquiet would be assuaged, if it were looked at again. It may be that there might have to be some suspension of the payments. This is not the occasion for me to say what arrangements I have made in relation to myself, but it may be that there has to be some suspension of those payments to meet better economic times, because make no mistake about it, civilized society, as we know it in Trinidad and Tobago, is up against it. I have spoken repeatedly in this Parliament about how mean life in urban Port-of-Spain is, and therefore, if we must have—so to speak—political or administrative knights, their armour has to be so shiny that you can see your face in it.

That brings me to another foolish thing that the Government has done and which I locate specifically in relation to the police service. I do not care whether it is for bonds or pastel leaves for which they are buying a new ministry building. The public will not stomach it. What I hear people saying in the street is that there are policemen sitting under tents in Princes Town, I think it is, but you are buying a building because a ministry is overcrowded.

I have two answers to that. One is let the ministry remain overcrowded, because many other people in the society are overcrowded, or perhaps, in the spirit of privatization and merger, that particular ministry could be merged with another one and clear some space. That is my answer to that. We have to avoid a situation where we, as lawmakers, are restraining the population on one hand, tightening their belts forcibly, and on the other hand, we appear to be letting our belts out.

I think this is a very important issue, because if we are going to have this kind of confrontation over the bad egg problem with the police, we must have the population behind us whatever it takes. I say, that apart from the other legislative and rule making on administrative matters which the Government must undertake, in the context of this Police Complaints Authority Bill, there are other steps which they have to take in order to find the moral authority with which to deal with these crises. I think that this Bill has come at a good time. I have tried respectfully to indicate what I think are the other things which need to be done, and how we can make this operate in the context of our constitutional arrangements.

I would just like to close by making some comments in relation to the clauses in the Bill. I noticed that there has been a lot of disquiet about the fact that in the discharge of its functions, the Authority does not have the power of subpoena and the power to compel. I would approach that this way. If the Government, as I gather, is willing to concede annual reports to Parliament, I say, let us start off with the lack of compellability. If it turns out to be a problem, then the Chairman can tell us in his reports that they have run into difficulties with the voluntary process and they would like some more teeth. I am willing to give it a try.

We got into a little difficulty over the appointment of the members of the Authority. Now, I think it is very important that we consider the constitutional position of the President. There is a little danger of over-reaction. Every time we have to make an appointment, we are going to, in effect, cast the burden on the President of the Republic. I think we have to reserve that for super, really top jobs. I do not have a problem with the President appointing these people, on the advice of the Cabinet, provided the Authority is going to report to Parliament annually, because, then we will be able to see whether the persons whom Cabinet has appointed are flunkies or are people who are doing serious work.

Therefore, let me make it clear that despite all my enthusiasm for this measure, as a start on the question of police discipline, so far as I am concerned, the Bill will be worthless, without the authority reporting to Parliament, which I noticed Sen. Wade Mark is proposing, as well. Indeed, Sen. St. Cyr made the point very powerfully, in relation to how the Auditor General and others function. Then, some disquiet was expressed about the ranking of the various police personalities who have to administer this Act. I tried to take care of that by making sure that there is separate procedure for the reviewing of complaints against senior police officers.

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I would be happy to support this Bill, for the reasons which I have said. I have had a general indication from the Minister that the amendments will receive some favourable consideration. There may be some concessions or redrafting in committee of what I hurriedly put together yesterday. Subject to those observations, and most of all, to the question of annual reports to Parliament, I would support this Bill.

I think I can say on behalf of a large number of people—I am not a pollster—once the executive responsibility for discipline in the police service is properly understood, I am certainly happy to say, and I think I am saying it on behalf of many citizens in this country to the Government, good luck with the bad egg situation, but perhaps, the bedside manners of the Government in this regard could do with a little polishing.

It would really have been better, even if he had met with a complete rejection, if the Minister could have told us that this Bill had been circulated maybe three or four weeks in advance of its coming to the Parliament, among the associations that represent policemen, even if he got a *boof*. I think this Minister, I know him well enough as a professional colleague to know that there are occasions on which entreaties are met with rebuffs, and repeated entreaties soften the rebuffs, and you get your way in the end, I do not think that is beyond his skill.

I think it is a bad practice—I must be critical, and maybe there has been consultation, but it has not been mentioned—to bring a bill like this to Parliament and not being able to say, “I circulated it three or four weeks in advance, to the associations that represent the persons concerned.” If they have said, we do not want to take part in it, or we want to be dissident about it, at least the olive branch—which if it is handled much longer would become tarnished—would have been extended in relation to persons who may be anxious about their future.

With those remarks, I would support this bill, subject to the comments which I have made.

Sen. Muntaz Hosein: Mr. President, let me begin by welcoming back Sen. Deodath Ojah-Maharaj. It is good to see him back with us. It appears that our prayers have been answered. I speak on behalf of the people's Opposition. We are very glad to have him back.

In presenting the Police Complaints Authority Bill 1993, the Minister said there was some urgency involved in getting this Bill passed.

However, he was not able to convince us that there was any emergency and I wonder if perhaps in his winding-up he can tell us what the emergency was all about.

2.20 p.m

The background to the Bill suggests that the Minister wants to restructure the police service, and while that may be an admirable task, we are unable to see any restructuring plan. We were hoping that when they were going to restructure the police service there would be some comprehensive plan presented to the national community and to the Parliament for which this Bill might be one part, but no such plan has been presented to us and it makes it extremely difficult for us to see how this fits into the overall picture.

The O'Dowd Report was referred to. It is a report that we hear about. We have no access to it. I wonder why this report was not tabled in the Senate, since it was referred to and, from what I am hearing from the other side and from other people, it appears to be a comprehensive report.

I know the hon. Leader of the Opposition made several attempts to get copies of this report, but without success, and I wonder why it is so difficult for the people's Leader of the Opposition to get a comprehensive report on the restructuring of the police service. This does not augur well when you bring a Bill that simply attempts to solve a problem for which a total and more comprehensive solution is required. They expect that we will be able to make a meaningful contribution to this Bill without seeing the total picture.

The perception of the public vis-a-vis the police investigating itself is the core of what this Bill is all about, and I can tell you that the perception out there is not complimentary. You will recall there was a case not so long ago where a policeman was in custody and was released to have a night out. This is the kind of scenario you are looking at and people read about this in the newspapers and, obviously, they are not happy.

There was the question of the La Tinta Affair. Nothing seems to have come out of that report. The Scott Drug Report: nothing meaningful has come out of that affair. There was the woman police constable Bernadette James Affair—a policewoman being killed in the line of duty under mysterious circumstances. Nothing seems to be coming out of all of these things. So that the perception of the public is not complimentary. They are not happy with the system of the police being able to investigate their own and come up with an acceptable decision.

Now we have this Complaints Authority. What assurance do we have that this is going to be any different from what exists presently? The Minister has not been able to tell us in his presentation to the Parliament that there will be a major difference to redress that situation.

We have not been told what will be the cost of setting up this Complaints Authority. Obviously there must be a cost—to cover salaries and housing. What are we going to pay these people? What is it going to cost the taxpayers? These are important considerations. We are in a situation where the Government is telling us that they are broke: they are telling the community outside that they do not have any money.

Therefore, it is relevant to tell us how much it is going to cost us and where the money is going to come from. The people would like to know. We on this side would like to know.

If we look at clause 20(4) of the Bill, it reads:

"The Commissioner shall ensure that the Division is supplied with sufficient staff and facilities to receive, record and investigate complaints."

If at present the police service is unable to do that in the normal run of their duties, where are they going to find the money and the wherewithal to do this? I think that it is important that the Minister explain that to us, so that we would understand what is happening. If we are going to take a loan to do this, then we must know that is where the money is coming from. Or, if it is that they are going to abandon another project for which money has been allocated and then take that money and shift it into this area, we need to know that. We need to be able to evaluate this project on a cost basis as well—from what we are going to get and how much it is going to cost, whether it is a good idea. To me, these are important considerations that the Minister omitted to mention. Perhaps the hon. Minister or the Attorney General in winding-up will address them.

One wants to know what will be the relationship between these five Scotland Yard officers and this new authority? How do they relate to each other? Are they going to be working independently or will they have some part in the Complaints Authority Bill that we are debating here? We need to have answers to these questions.

We are told that five officers are going to be appointed soon. We have not been told what is going to be the cost to the taxpayers of Trinidad and Tobago of

bringing these five officers to the country, and I would like very much if the Minister could inform the general public of the cost, over and above the cost that we have to bear now.

2.30 p.m.

I would like to quote from page 54 of the *Economist* of December 5, 1992. I want to indicate some of the things that the international community is saying about Trinidad and Tobago. It says here:

"Trinidad

Cleaning up

Former British colonies fairly often call in policemen from Scotland Yard to deal with an awkward scandal or murder.

Trinidad currently has a team in from London checking on the whole police force."

It goes on:

"Trinidad produces some marijuana. The local market for crack is sizeable... drugs are not the only source of corruption..."

They tell us:

"Nobody is surprised when low-paid customs officers drive fast cars or when politicians get rich. Few people talk to the police if they see a mystery boat unloading on their local beach. They assume that informing will win them powerful enemies."

This is what the international community is saying about us.

"There are police stations whose telephones cannot make outgoing calls."

I did not realize that the international community knew about this.

"...police cars are off the road because there is no money to buy a fan belt. Promotions go with long service and a tendency to keep quiet. Officers who get energetic may find their lives made difficult, or may even find themselves taken to court by their colleagues."

It goes on:

"The last time outsiders reported on the Trinidad police was in 1987 and it ended in a farce. The police commissioner was prosecuted and acquitted; five magistrates and 52 policemen were suspended, then reinstated... Local people

are often ready to tell an outsider things that they would not dare say to a local policeman."

It gives one a clear picture. It goes on, again:

"Trinidad is too well-off to qualify for aid. Next year's budget—just announced—makes depressing reading for those who want to keep up public service morale. The visitors from Scotland Yard are expensive."

I want to repeat that:

"The visitors from Scotland Yard are expensive." (The international community knows how expensive, and they are telling us that they are expensive, but we here, in the Parliament of the country, do not know anything. We do not know how much).

Mr. Sobion: What is the figure they quoted?

Sen. W. Mark: They did not quote figures, they just said they are expensive.

Sen. Hosein: I think the Minister is a very intelligent fellow, he listens well.

But we here in the Parliament of the country, the lawmakers of the country, we know nothing about the cost.

Mr. President: I think I should remind the Senator that there is a question due for answer soon concerning the cost of Scotland Yard detectives to Trinidad and Tobago. So he should refrain from dealing with that until the answer is given officially.

Sen. Hosein: But, Mr. President, perhaps the answer might be required even before the question is answered, that particular question.

You see, Mr. President, it is the contempt with which this Government treats Parliament. I am not convinced that the Minister has been able to make a case to this House that his action is (a) legal, and (b) necessary.

I must ask the question, Mr. President, because we are listening to statements made by the Minister, we heard a statement made by the Prime Minister, that there are a few corrupt policemen in the police service. I accept that. Then I ask the question: If that is the case, what is the position with all of the good, knowledgeable police officers whom we have in the police force now? Are they not capable of doing the job? I ask that question to the Minister. Because when they do this, it is an indictment of the whole police service—that they cannot find

people within their police force to do this job. Maybe he has those statistics and we do not have them. We need to be convinced that this is so. If that is what he is telling us, then he must come out frankly and say that. Therefore, we would have no problem with him if that is what he has to say. But he has not said that.

He has not made a case for that. We want him to make a case, because we are looking at expenditure at a time when we do not have the funds to spend. Obviously, they must come to the Parliament and tell the Parliament and make a case for spending that money. Until they make a case for spending that kind of money, we on this side of the House would have a problem with understanding their motives.

If they say that they have a few corrupt cops and they have some evidence, I say, Mr. President, suspend them. Why not suspend those cops who they say are under investigation? Or, better still, charge them if they have the evidence? But do not leave it hanging and then continue the investigation. If they leave them there, I think they are tainting the entire police service. I do not think that is what they want to do. I do not think it is right to do that to the police service, nor to the entire country. The innocent must not be tainted with the guilty or be made to pay for the guilty.

Mr. President, we are told that we had investigators come here, they spent a number of months investigating. We are told that that was not sufficient, that they now have to bring five people and give them rank in the police service so they can continue that investigation.

Mr. President, you will recall that prior to the Scotland Yard people coming here, weeks before that, the Government made statements that they were coming and, therefore, one wonders if this is not the reason why they cannot find hard evidence. Because if they forewarn people of what is likely to happen, then the evidence is likely to disappear.

Sen. Dr. Saith: Mr. President, on a point of order. I question the relevance of the Member's contribution to the Bill before us. We are not debating, as I understand it, why the Scotland Yard detectives are here and what they are doing. We are debating a Bill which deals with the setting up of a Police Complaints Authority.

Mr. President: The point of order is sustained. I did not want to interrupt the Senator because I find myself having to interrupt him a little too often and then being accused of muzzling him. But my advice to him is that if he wants to have a

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place to lodge complaints against the police service, to hasten with the passing of this piece of legislation. Do not delay it unnecessarily so that the machinery can be put in place for him to make all the complaints that he would like to make concerning the police service.

The retention of Scotland Yard detectives and the cost of it are not really relevant to this Bill before the Senate right now.

Sen. Hosein: Mr. President, I fail to see—I will abide by your ruling—but I fail to see that you are correct here at all, because there is a link between corruption and complaints. There must be a link. The history of the country has shown that there is a link between corruption in the Police Service and complaints and the perception of the people.

Mr. President, evidence has a way of disappearing, rats eating cocaine rocks. The Government has a habit of bringing legislation of a peripheral nature, ignoring the core of the problem. We are having a problem all the time with them. One wonders if it is not a red herring to take people's minds away from the core of the problem.

The real problem, Mr. President, is not a mechanism to make complaints. The mechanism exists in the police service right now for people to make complaints. Anybody could walk into any police station and make a complaint, and there are police stations all over Trinidad. But the crux of the problem within the police service is frustration. A large percentage of the police officers within the last few years have left because of frustration, low morale in the police service and lack of proper housing. These are the issues that the people's Government ought to be looking at.

The Princes Town Police Station, fleas all over the place, policemen sleeping in dog kennels; that is what we ought to be looking at.

Mr. President, if they leave these problems unattended, the Complaints Authority will be so flooded that there would be no way that they would be able to do their work. What they need to do is attend to the cause of the problems so that whatever complaints they get would be normal and minimal and then things can work in a better manner. They may not even need to have a Complaints Authority. The normal police station would be able to work.

For example, Mr. President, the police are working with old cars. The vehicles that they use—and now, I am told, that we are going to send policemen on motor

cycles into high risk areas. Well, they are getting gunned down in silent motor cars. They change that and put them on noisy motor bikes, where they will shoot them down more easily. They have no protection. These are the kinds of issues—

Mr. President: Senator, I have a problem. I have tried to be as charitable as I can. These things have no relevance to the Bill.

You see, you cannot get away with coming here and saying: "This is not the important thing. The important thing facing the country is (a), (b) and (c)", and proceed to debate (a), (b) and (c). No, that is not relevance.

You have to centre your remarks around the subject matter that is before the Senate. If there is something else that is important to the country and needs priority, you bring a motion or a question or a Private Member's bill, do anything, but you must bring it in the proper way so that you can debate that. But you cannot come here on any bill or motion before the House and say, "This is not important; the important thing is so and so", and proceed to debate that. That is not allowed at all. That is irrelevance.

Sen. Hosein: Mr. President, this whole country is irrelevant. I think we are kind of upside down here: In the people's Parliament; we cannot bring the matters which the people want to hear about, we cannot tell the Government that this matter which they are bringing before us is not relevant or important and point out to them what really is the important issue facing the police service, because this is what it is all about. This is a matter dealing with the police service, and if it is that we on this side of the Senate cannot say that, "Look, this Complaints Authority is irrelevant, this Complaints Authority that they are putting here is not the core issue, this is the core issue", then what is the point of being here? I do not understand that ruling at all.

Mr. President: I do not expect you to, but just abide by it.

Sen. Hosein: Mr. President, if in this Senate, I am unable to tell this Government that the Bill which they have brought before us—and I want to point out that other Senators have been able to do it with impunity—I cannot—

Mr. President: Senator, if you question the ruling of the Chair, I would have to take other measures that would not be pleasant and I really do not want to. But if I am forced to, I would do so.

You have made many remarks. I did not stop you because I know the first thing you would say is I am muzzling you. A Senator rose on a point of order and

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I upheld the point of order. But you proceeded to argue and argue why your irrelevant points are relevant to the Bill because, obviously, you do not have anything to say regarding the Bill itself.

Sen. Hosein: Mr. President, I take objection to that remark.

Mr. President: I am still on my feet.

I have allowed you enough latitude. Of course, Senators can refer to certain things en passant, but you want to go into detail about matters that have nothing to do with the Complaints Authority. This is why one Senator rose on a point of order that you were being irrelevant, and he was quite correct. I am sure the majority of Senators, including those on your own side, will agree with the ruling.

If you cannot stick to the Bill before the Senate, my advice to you is to end your contribution and allow somebody else to say something.

Sen. Hosein: Mr. President, I want it recorded in *Hansard* that I take objection to your remark that I have nothing else to say on the Bill. That is why I am saying this.

Furthermore, Mr. President, there is no point in my continuing in this debate if I am going to be muzzled. As a matter of fact, I do not think I will stay in the Senate today under these conditions. I will leave.

[Sen. Hosein withdrew from the Chamber]

Sen. Salisha Baksh: Mr. President, I, like my other colleagues, would like to welcome Sen. Deodath Ojah-Maharaj back to this honourable Senate. It is good to see him here with us, again, and I sincerely hope that his recovery will continue.

Mr. President, our country faces a future of economic, social and political strife. Amidst this unfortunate turmoil, the role of the police is crucial to ensuring public tranquillity. Our fundamental rights and freedoms, as guaranteed by our Constitution, must never be infringed; we must always be comforted by the fact that no person is above the law.

If, Sir, we are the victims of an illegal or immoral action, then we must be able to gain sanctuary in a legal framework which recognizes the sacredness of human dignity. The public must, therefore, Sir, be assured that there exists within our society an independent body to whom their grievances against the police can be aired and that in appropriate cases necessary action will be taken against offenders.

But unlike my friends, Mr. President, on the other side, I firmly believe that the Bill before us today will never achieve its stated objectives unless and until there is a restoration of public confidence in our police service. It is for this reason mainly and for important reservations generally, that I join with my colleagues in withholding my support from this Bill.

Mr. President, only the myopic or the irrepressible optimist would believe that this Bill is one of the answers to the present problems plaguing the police service. For how can we expect, Sir, the authority to be established to flourish in a vast expanse of land which is nurtured and fertilized with seeds of corruption? We must first clean up our backyard—even if it is with the help of Scotland Yard—and weed out the destructive elements. Otherwise, the authority which we seek to plant, will never live to see the light of day.

Mr. President, we admit that there are police officers whose conduct gives rise to complaint, and it is desirable in the interests of other policemen and the public that such complaints should be speedily and seriously investigated.

The challenge is, therefore, in light of the innumerable crises experienced within the police service, including limited reserves and resources for which they must not be blamed, to strengthen the pillars of honesty, integrity and discipline which presently support the enormous weight of a crumbling structure.

Mr. President, mention must be made of those police officers who remain committed to their duty to protect and to serve the public, for they cannot be faulted, although they are tainted by the wrong deeds of their brother men. It is for these good men, Sir, within the service whom we must turn to in our time of need to exert the necessary pressure within their ranks to expel the evil forces which presently exist in the police service.

With this Bill, Sir, and without their help, all efforts to investigate and resolve complaints will prove futile.

Mr. President, in my contribution here this afternoon, I wish to address specifically three issues, namely:

- (1) the ill-timing of this Bill;
- (2) the disregard for public comment on the Bill; and
- (3) a plethora of irregularities, inconsistencies, ambiguities and important omissions which will render the implementation of this Bill onerous.

Mr. President, I will now deal with each issue in turn. The first one, the ill-timing of this Bill: This Bill is presented to us at a time when there is an evil lurking within our police service. This wicked monster will not be destroyed or driven away by the enactment of this legislation. The monster I speak of is the alleged corruption which has become synonymous with our police service.

In other words, Mr. President, if we are not careful, this Bill would just be used as a tool in the furtherance of corruption within the police service. So unless the issue of corruption is dealt with in a positive manner immediately, the entire construction of a stable police service, which is desired, would fall apart, because it would be based on a weak foundation.

One of the methods, Mr. President, of eradicating or, at the very least, minimizing the occurrence of corruption is the establishment of a proper system of accountability.

3.00 p.m.

Now our Constitution is based on a system of checks and balances, but, Sir, the scales of justice are sometimes tipped, or not used at all. The primary purpose of the authority to be established is to reassure the public that complaints against police officers are thoroughly and impartially examined and that, where appropriate, disciplinary action follows.

Part III of the Bill, Sir, establishes the Police Complaints Division, which is charged, primarily, with the responsibility of investigating complaints. However, by subsection (3)—

"the Division shall be headed by a police officer of the rank no lower than that of Assistant Superintendent."

But no provision is made for any real independent checks on the process of investigation. I am sure that the public would ask a question: if complaints against the police are to be dealt with impartially, should they not be investigated by an independent body recruited from outside the police service? This would, in fact, be ideal, but, in view of the apparent lack of funds and resources, the implementation of such an independent body would remain unattainable. So therefore, if such an independent body, though desirable, is impractical, we must exercise even greater caution, Mr. President, in ensuring that accountability and proper machinery for proper checks and balances are installed within this Bill.

Perhaps the solution lies in granting the authority the power to supervise the actual investigation of complaints, and these powers would be mandatory in cases

of serious complaints, and discretionary in all other cases. Mr. President, my point is, simply, that there are too many allegations of corruption and unexplained mysterious activities wreaking havoc within the service, and until such time as these fears and aspersions are put to rest, the Police Complaints Authority Bill should not be enacted.

Mr. President, I will now deal with the second issue, that is, the disregard for public comment on this Bill. It is unfortunate that a Government which pretends to operate under, and adhere to, democratic principles, did not seek to solicit public input before presenting this Bill to Parliament. Mr. President, when I use the word "public" here, I am not referring to a select few in our community, who are specially chosen by the Government. I mean every member of our society, irrespective of race, creed, class or profession. Had this been done, Sir, the public would have been made a part of the decision-making process, while at the same time, made aware and be assured of their rights.

But, Mr. President, is it not these members of the public who will be laying complaints? Is it not for their benefit this Bill is being introduced? Is it not strange that their support, experience and reservations were not solicited? But I am not in the least bit surprised by the Government's blatant disregard for the consensus of the people, because they now appear to be operating as men unto themselves.

Mr. President, my third issue, undoubtedly relevant to today's debate, will be even more fundamental should this Bill be passed. I will, therefore, deal with certain sections as they appear in the Bill. Reference is made to clause 3 of the Bill, which defines the word "complaint" as—

"...the conduct of a police officer which is submitted under section 21;"

Now bearing in mind the purpose of the Bill, which is, to unearth police misconduct and deal with it, the word "complaint" should be given its widest meaning. The public, Sir, may not accurately define the precise scope of the conduct which is the subject matter of their complaint and, thus, their complaint may be deemed frivolous or irrelevant even though, upon investigation, a substantive case could have been made. The definition of the word "complaint" should, therefore, embrace all such matters arising out of, or in connection with the incident complained of, as the Authority or Division might determine by investigation or otherwise.

Another observation, Mr. President, is that the strength of this Bill and its ability to achieve its stated objectives are wholly dependent on the independence

and competence of the authority which the said Bill creates. Any element of bias or prejudice in the exercise of the functions of the authority will serve only to intensify the already strained relationship between the police and the public. The composition of the Authority is of paramount importance and, thus, it is fundamental that its members are men and women whose integrity, investigative and administrative skills, would ensure a proper dispensation of justice.

The point is, Mr. President, that according to section 7(1) of this Bill the appointments to the authority shall be made by the President. But, Sir, with all due respect to the person who holds the highest office in our country, and who, undoubtedly, should be a person of integrity, much more I think will be achieved if other competent persons participate in the selection of the authority; and this point was mentioned earlier on by one of my colleagues and I intend to make mention of it again because of its importance.

So, perhaps, the President should act after consultation with the Prime Minister and the Leader of the Opposition, thereby satisfying himself that due consideration has been given to persons worthy to hold such office. Further, Sir, it would also serve to demonstrate to the public, the true meaning of democracy in practice, where men committed to the national interest come together for the common good, regardless of their political, social, economic or other affiliations.

3.10 p.m.

I know that the Minister of National Security, in his presentation, emphasized that the justification for this clause was to ensure the absence of political influence. But if the amendment, as proposed by us, is accepted, the independence of the President's choice will not be affected, for the President would have acted "after consultation", as opposed to, "on the advice of".

Reference is made also to clause 18 which deals with the independence of the authority. I think that it is necessary to note that no provision is made for assigning to a minister the responsibility for such aspects of the administration of this Bill, as may be necessary or desirable, to facilitate the operations of the authority. If such a provision is not made, the authority would, in fact, be autonomous, save and except for the restriction within clause 18. Also, such a provision may be desirous in light of the Minister's responsibilities and powers to make regulations for this Bill.

In clause 21, provision is made for the submission of complaints by a person. I think, also, that it should be made clear whether the use of this word, "person", includes limited companies, public or local authorities, trade unions, pressure groups and their representatives, because clarification of this point at this stage will ensure that valid complaints are made.

Clause 23 deals with frivolous complaints and the procedure for their resolution. However, it is important to enable informal resolution of valid complaints. Thus a new clause should be added directly under clause 23, dealing with informal resolution of complaints. This clause should allow the head of the division, upon being satisfied that the complaint relates to conduct which, even if proved, would not justify a criminal or disciplinary charge, and upon gaining the consent of both the complainant and the police officer concerned, can seek to resolve the complaint informally.

The powers granted to the relevant bodies, the practice to be followed and the procedure to review, as stated in the said clauses 23 and 30, can be maintained and adjusted to suit the said informal resolution of complaints. Further provision should be made for a complaint, even though resolved informally, to be resolved formally, should additional evidence so warrant.

As a matter of observation, clause 23(3) appears ambiguous. In subclause (1), the head of the division is given authority to dismiss frivolous complaints. Yet in subclause (3), the said division, under certain conditions, can re-open investigation of any such dismissed complaints. To resolve the ambiguity, it seems that the words, "or the authority". should be included in line 2 of subclause (3) after the word, "division." In line 4 of the said subclause (3), the words, "the division, subject to the direction of the Commissioner or", should be included after the word, "pressure." I am, of course, prepared to be guided accordingly on this matter by the hon. Minister.

We have several amendments to this Bill. I have here an additional set of amendments to clauses 4, 6, 8, 20, 35, which I will pass on to the Clerk to make available to other Senators, so I will not take up unnecessary time pointing out these amendments, which are self-explanatory in our note. But as I am on the topic of amendments, I refer now to clause 41(1), which empowers the Minister to make regulations with respect to the Bill.

As we all know, regulations are the life-blood of every Act, because they dictate the ambit and mode of operation. Thus, the regulations to be made should

be after the Minister has consulted with the authority, for it is this body that has the responsibility of ensuring the efficient and effective operation of the investigative and adjudicative process.

Further, subclause (2) states that "regulations made under this section shall be subject to negative resolution of Parliament." I wish to reiterate this point. Bearing in mind the wide powers entrusted to the Minister and the need to ensure the greatest participation by the maximum number of people, it is definitely preferable that the regulations made under clause 41 should be subject to the affirmative resolution of Parliament. We would, therefore, be able to enjoy lively, constructive debate on crucial issues affecting the functioning of this authority.

I also wish to note several other points: The fact that clause 21(1) does not enable a person to make a complaint to the division itself, which I think should be allowed; the fact that complaints already reported, but still outstanding, have not been brought within the ambit of this Bill; the fact that withdrawal of complaints has not been addressed. We say that provision should be made for the authority, upon being informed of the withdrawal of a complaint, to satisfy itself that such withdrawal was entirely voluntary and effected with well-informed consent. Reference is made to clauses 35 and 27(1) of the Bill which deal with the completion of hearing and review by the Commissioner.

3.20 p.m.

Mr. President, notice is made of the fact that it is the Commissioner who has the ultimate say in deciding the outcome of the report on any said complaint. Perhaps, Sir, it would be more judicial to make it mandatory for the Commissioner to refer the matter to the DPP once an offence is disclosed in the report which merits prosecution. It should not be left to the Commissioner to deal with such an offence by way of discipline. For the words "merit prosecution" refer to the quality of the offence and not the availability of proof.

Further, the Commissioner should not be solely in charge of determining the discipline to be enforced against the police officer. There should be established, a disciplinary tribunal chaired by the Commissioner, but comprised of other persons who would therefore ensure that justice is done and is felt to be done.

Finally, Sir, no mention is made of the practice and procedure to be adopted during the investigation of the complaint with respect to the taking of evidence, the availability of legal representation for the accused police officer and whether

the rules against hearsay will apply. These matters, Sir, must be addressed in order to ensure that the accused police officer is given a fair hearing or trial.

Mr. President, these are just some of the problems that we have with this Bill. Perhaps, the only real solution to the present instability, the low morale and lack of public confidence in the police service is a serious joint effort by this Government, the police officers and all citizens of our country, to ensure that undesirable elements within the police service are cast into oblivion with immediate effect.

Thank you, Sir.

The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):

Mr. President, regrettably I missed most of the debate on this Bill, but I did hear the contribution by my erudite friend, Sen. Capildeo. Every time I hear Sen. Capildeo, I remember my mother saying that "a little learning is a dangerous thing".

Mr. President, before I deal specifically with the Bill before us, there are two matters of general import that I think I ought to say. Firstly, that I get the impression from time to time in these debates that we are dealing with opposition for the sake of opposition. Even when there is a commendable piece of legislation before the Senate, they drift off into irrelevancies in order to justify their position on the benches of the Opposition. I say that, Mr. President, bearing in mind that one of the learned Senators on the other side ejected himself from the Senate earlier this afternoon when he drifted down that road of irrelevance.

The other feature that seems to keep cropping up in these debates is this concept—which is not rooted in anything that I know of the Westminster model of government—of joint government arrangements between the people's elected Government and the Opposition. It turns up in every debate and at every corner, and I have grave difficulty in understanding the rationale behind that particular move.

There is, perhaps, one other factor—and when I get into the Bill itself, it will all become relevant—and it has to do with the quality of the debate in terms of the damage that we seem to be doing to the institutions of our nation, as a whole. I have said it before, and I will repeat it, that in this forum where we are supposed to be representing to the people the highest traditions of government, I get the impression that there is an undermining of the institutions of the country, sacred as they are, and I think it does not augur well.

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Sen. Daly, I think it was, made the observation that there was some prophecy on the part of Sen. Dean, but it is not prophetic at all. In fact, his reference to the demonstration which took place around this Chamber last Friday is not a question of Sen. Dean being prophetic; it is a demonstration of what is going to happen if the institutions of this country are going to be continually undermined, particularly, by people who sit in this Chamber. I say it, I have said it before, and I will say it again: I think that Senators ought to be careful in how they approach the constitutional institutions of our country. It is no good scoring cheap political points across the floor when, inevitably, what is going to happen is that there will be a weakening of our democratic institutions to the point where there may be no turning back.

Sen. Daly: Mr. President, as Sen. Dean is not here, may I enquire whether this lecture is intended for him?

Hon. K. Sobion: Mr. President, this lecture, as Sen. Daly calls it, is not intended for Sen. Dean. I made it quite clear that I was speaking to Senators, and I refer to all Senators. I did not single out Sen. Dean in any way at all. If Sen. Daly somehow feels that the reference is specifically to Sen. Dean, I assure him that it is not. In fact, it was Sen. Daly himself who spoke about people counting money at the top of the twin-towers while blood flows in the streets. That all sounds very good and nice, but, in fact, what we are doing is creating a negative atmosphere in the country and unjustifiably so. We are creating an atmosphere whereby any kind of thing can happen and the persons who do it will point their fingers at the Senators who sit here. That is the concern that I have.

This Bill, Mr. President, is one which deals with complaints by members of the public and seeks to regulate how those complaints are dealt with and also seeks to put in place, checks and balances governing the control of those complaints. It creates, therefore, a Complaints Authority which is going to oversee the complaint from the time it is filed, whether it is at the police station or with the authority. It is going to provide a machinery whereby those complaints can be overseen.

The Bill, does not, as has been suggested from the other side, seek to put pressure on police officers. I get that impression from reading the *Hansard* reports that this is a Bill which is designed to put pressure on police officers. It has no such purport. What the Bill does is to provide that a person laying a complaint can feel assured from the time he lays that complaint that it will be dealt with in an impartial manner.

There is an independent authority, above the Police Divisions' Complaints Board, which can monitor the complaint and to which he has redress, as well as, the complainant. That is simply what the Bill provides for.

3.30 p.m

What we are seeking to do is to make the procedure for the public more accessible: they can either go to the police station or directly to the authority and lay their complaint. It makes it easier for them. Those who feel that they have a problem with the police station where they live or, because they may have had a bad experience, as Sen. Rooks suggested he had, can go directly to the authority. They need not go to the police station. If they go to the authority, the authority then channels that complaint to the Complaints Division which will deal with it.

Concern has been expressed about the fact of ministerial control over the authority. That suggestion springs from the factor I mentioned earlier, the question of some sort of joint arrangement between Government and Opposition in running the country.

The Minister of National Security is the Minister responsible for the protective services. Let us not fool our fat about that. He is the person responsible for the Police Service. Under this Act there is the authority which monitors complaints. If the Minister under that Act has the authority to request from time to time information about the conduct of the authority, I cannot see how that could in any way be interpreted to mean ministerial interference. The Minister has a responsibility. The authority has a responsibility to oversee complaints, and it is only fit and proper that the Minister should receive reports on the conduct of the authority's business or, if he himself receives a complaint directly, he can say to the authority: "Let me know what is happening with that case in Manzanilla; there was a complaint lodged six months ago. I have a complaint from the complainant; what is happening with that matter?" That is the role and function of the Minister. He is the final overseer, as it were, over the work of the police division and the Complaints Authority. There is no question of ministerial interference. It is only a question of ministerial responsibility. That is all that it entails.

Of course, as we drift on to the question of joint participatory government, whatever that means, we hear talk about joint select committees at every turn. As a matter of fact, I was looking at the report on the Constitution Commission some time ago, and it occurred to me that when Members who now sit in Opposition were part of the Government, they made representations to the Constitution

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Commission. And not one of those recommendations that they then made had anything to do with a joint select committee of Parliament. When they were in Government, Members, who now form the Opposition, had all the opportunity to do it. They set up a Constitution Commission, and went before the Constitution Commission and not one word was heard of a joint select committee. But, at every turn as we sit in this Parliament, we hear talk of a joint select committee—this is why I said a little learning is a dangerous thing as you will find out.

Mr. President, I wish to deal with a few of the matters raised. I will deal with some of the positions advanced by Sen. Baksh. Unfortunately she is absent but I am certain that Sen. Capildeo will take the relevant note. Reference was made to clause 21 of the Bill. Clause 21 deals with the submission of complaints and says that “a person wishing to make a complaint, shall do so in writing to the police officer in charge of a police station”.

The submission made by Sen. Baksh was that the clause should be expanded to include corporate persons, trade unions etc. Sen. Baksh would perhaps, need to be guided by the fact that the Interpretation Act Chapter 3:01 covers the position which she was advancing. I quote the relevant section:

"16. (1) Words in a written law importing, whether in relation to an offence or not, persons or male persons include male and female persons, corporations, whether aggregate or sole, and unincorporated bodies of persons."

So that there is no need to do any juggling with clause 21 of the Bill. The word “person” is wide enough to encompass corporations, unincorporated associations etc.

Reference was also made to section 2(1) relating to the complaint, that it was not possible to make a complaint directly to the division. There is a reason for that. The complaints are made either directly to the police station or to the authority. They are then channelled to the division, so that the division itself is not a recipient of complaints but it is the actual investigating body. What happens, therefore, is that a record is kept of the complaints via the authority. Nothing goes to the division directly without the authority knowing what is being investigated from time to time. You would see that the clause that deals with a report to the police station says that a certified copy should be given to the complainant and should be sent to the authority so that at any given point, the authority, which is the monitoring body, has complete control over what is being investigated. So that

we do not have direct complaints to the division—they must go under the umbrella of the authority.

Reference was made by Sen. Baksh as well to the fact that there were no provisions for withdrawal of complaints and for persons to be represented at the hearing of an investigation. These are matters which properly fall within the ambit of regulations which would be made by the Minister under the Act. It is not the proper procedure to have such measures put in the body of the Bill itself. If a complaint is to be withdrawn, a procedure will be set up within regulations to deal with that.

Reference was made to the fact that these regulations are being made by the Minister and that they should be made "in consultation with".

Mr. President, I have said before that the Minister is the person responsible for the police service. It is for the Minister to make the regulations. Of course the Minister would have to pay regard to what the set-up of the authority is and he will have to consider how the authority intends to operate. It is for the Minister to make such regulations. It is not a question of any joint parliamentary committee to make regulations.

3.40 p.m.

It is for the Minister, as the person responsible, to devise regulations which he, after consultation with the authority, believes can work in the best interest of the legislation. This leads me to the question of "affirmative" or "negative" resolution.

The suggestion has been made that the Bill be amended at clause 41 to read that regulations should be subject to affirmative resolution. The regulations which the Minister is required to make are set out in clause 41 which states:

- "(1) The Minister may make regulations for the carrying out of the objects of this Act and without limiting the generality of the foregoing may make regulations prescribing—
- (a) the practice and procedure to be adopted in relation to the formal investigation of complaints;
 - (b) the practice and procedure to be adopted at any hearing by the Authority under this Act;
 - (c) such other matters as may be required by this Act to be prescribed."

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These are matters of procedure. These are the necessary regulations to get the authority and the complaints division working. They are not matters of any great contention; the practice and procedure to be adopted in relation to the formal investigation of complaints. That is a matter of procedure, how procedurally is a complaint, having been lodged, to be taken through the processes which are set out in the Bill. That is all that the regulations are required to do.

If, therefore, there is a problem, and Members on the other side feel that there is a problem about a regulation which has been made, it is open to them to file a motion dealing with—*[Interruption]* Mr. President, I am hopefully trying to convince the Members on the other side as to a particular point of view. If Sen. Mark wishes to make another contribution, I have no problem with sitting down.

I am saying that the regulations which the Minister is required to make under the Act are purely procedural, dealing with how a complaint progresses from the time of filing to the time of determination; the procedure to be adopted by the authority in any review of those complaints, and it is not that one is taking away from Parliament any right of review, but because these matters are necessary to have the authority and the division proceed with their work, we have put in a provision which says it is subject to negative resolution.

If there is any regulation made by the Minister under the Act which offends Sen. Wade Mark, he can file a motion objecting to the particular provision, and state his case fully, rather than sit there, and shout "we want affirmative." That does not help the situation. There is no logic in what he is saying, and the provisions that we have set out insofar as these regulations are concerned, are commended to this House.

I thank Sen. Daly for his qualified support of the Bill, but there is an amendment which he has proposed, which I think the hon. Minister has signalled to him that we on this side have a difficulty with. It is the amendment to clause 5(c) of the Bill. Clause 5(c) as it now stands provides that the authority should report to the Minister from time to time, or at his request.

The proposed amendment by Sen. Daly seeks a deletion of that provision. I think I had dealt with the rationale behind having the authority report to the Minister from time to time. The suggested amendment would require that the authority make annual reports on the performance of its functions to Parliament, which shall include details of the complaint et cetera.

I had the opportunity to hear Sen. Daly, and in the course of his contribution he made a very strong case, and I think rightly so, for the recognition of the Police Service Commission as being the highest authority in terms of discipline of police officers. It would seem to me, therefore, that the suggested amendment would perhaps be a little inconsistent with the constitutional provision, which relates to the Police Service Commission.

I think if we understand what the Bill is seeking to do; it is seeking to provide a machinery whereby complaints are investigated with a view to having them sent to the Police Service Commission, at a later stage; at the end of the day they reach to the Police Service Commission. It is a preliminary machinery which takes place and that is done by the division, supervised and monitored by the authority.

Sen. W. Mark: On a point of clarification. Could the hon. Attorney General point out to us which clause of the Bill says that matters are referred to the Police Service Commission? I have not seen it.

Hon. K. Sobion: I will find the relevant provision for the Senator in a moment.

The point I was making is that the ultimate authority is the Police Service Commission. I want to refer Sen. Mark in response to his query to clause 27 (1) of the Bill which states:

"The Commissioner shall review all reports submitted by the Division under this Part..."

This is having done the investigation—

"and unless notice of an application for a review of the findings is served on the Authority in accordance with section 30, the Commissioner may immediately—

- (a) refer the matter to the Director of Public Prosecutions...
- (b) take such action as he thinks fit, in accordance with the Police Service Commission Regulations..."

Under the Police Service Commission Regulations, where a matter has been investigated, the Commissioner is required to send a report to the Commission, and it is dealt with at that level. To have the authority report to Parliament before the matter is dealt with at the Commission level, would be to undermine the work of the Police Service Commission.

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From that point of view, whilst it may in the normal course of things be a commendable proposition that matters should be brought before the Parliament, I think in the particular instance of Sen. Daly's proposed amendment, it is undesirable because the matter will later have to be dealt with at the level of the Police Service Commission. For that reason and for that reason only, I think it would be a little difficult to accept the amendment proposed by Sen. Daly.

There is one other matter to which I think I should refer. I think it comes principally from the contribution of Sen. Rooks, although I think Sen. Capildeo referred to the Bill as being useless. I think Sen. Rooks said, "I see no point in this Bill whatsoever; I see no point in forming the authority when it has no teeth."

Sen. Capildeo said, referring to the Collymore Report:

"This bill is just like that. One, it is toothless and two, it is useless".

So, I do not think I am misquoting Sen. Capildeo at all.

3.50 p.m

I think that fundamentally there appears to have been a misunderstanding as to the purport of the Bill, which is an improvement on the existing situation. Reference was made to the fact that there is already an existing Investigating Unit; the fact is that we have come to realize and the public has come to realize that when they make complaints to the Internal Investigating Unit—

Sen. Capildeo: On a point of clarification. I also said that the intention of the Bill makes sense. You have to read my whole speech. A little reading is almost as dangerous as a little learning.

Hon. K. Sobion: I am sorry that I underquoted Sen. Capildeo. The intent of the Bill makes sense, but it is toothless and useless, said he. The point I am dealing with is the fact that his reading of the Bill led him to the conclusion that it is toothless and useless. We do have an Investigating Unit at the moment in the Police Service and John Public will tell you that they never feel satisfied when they make a complaint.

I am not casting any aspersions on the police service because, as I said from the very outset, this Bill is designed not only to protect the complainant, but also the police officer. It is very easy, as happens from time to time in this country, for

people to make these unfounded remarks about the police service: "I went to a police station and I was treated in so and so fashion", and the poor police officer has no way of defending himself. *[Interruption]* I am not saying that every report is unfounded. What I am saying is that it is easy to make unfounded remarks of that nature. In the same way that a complainant may feel that he is not getting just treatment when he goes to a police station, some police officers feel that they are being pilloried by members of the public.

The concept which has been devised by this Bill is to provide an investigating body which will do the actual leg-work and must report from time to time to the independent and impartial authority which will review and monitor in the interest of both parties—not only the complainant. So that to say that the Bill is useless and toothless is to misunderstand what the Bill intends.

Sen. Capildeo: On a further point of order. He has got *Hansard*, he should read me correctly.

Hon. K. Sobion: What is the point of order?

Sen. Capildeo: You are misquoting me again. You should read what I had to say. Read my whole contribution because I talked about side by side with the protection of the citizen. I notice that there has been no mention of this at all in either the opening or closing of the Minister's contribution.

"Side by side with the aspect of the protection of the civilian, I believe we should also look at the aspect of the protection of the police".

What is my friend going on and on about?

Hon. K. Sobion: As much as Sen. Capildeo will rise to advocate some spurious point of order, he cannot escape the fact that he said that this Bill is toothless and useless, and the passage to which he now refers says that the Bill should be addressing the question of the protection of the police. What I am indicating to Sen. Capildeo is that that is here in the Bill before us. The monitoring authority is not a body to take sides with the complainant, it is a body which is designed to ensure that the investigation takes place in a manner which is fair and impartial, not only to the complainant, but also to the police officer complained of. That is what the Bill seeks to do.

Now that Sen. Capildeo has started me off on his contribution, he may perhaps also want to deny that he said that:

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"The authority is another statistical gathering piece of machinery invented as a pacifier to placate an unsettled public".

Do you see what I mean about a little learning? We get all kinds of flowery language, but the substance of the Bill is not addressed. The machinery for the investigation is clearly there and we have added to the machinery a body which can investigate and oversee how these complaints are being dealt with, so it is not a mere statistical piece of machinery there to gather information.

This Bill is one which, in my view, the public of Trinidad and Tobago is yearning for. I think it will satisfy the population as a whole and improve, in due course, the relationship between the police and the general public. Once they know, and both sides are comfortable, that their complaints are being fairly addressed, I am certain that it has that ultimate effect of improving relationships between the police and the citizen.

Whilst we appreciate that there are police stations to be repaired and built, vehicles to be provided, hospitals to be fixed, schools to be built—and the litany can go on and on—what we as a Government recognize is that the Minister of National Security is quite right in bringing this Bill. It is not piecemeal as Sen Capildeo would have us believe. It is part of an organized programme of improving the police service and part of a full programme of creating the kinds of reforms—and it is dangerous for Senators on the other side to create this kind of mass hysteria, this kind of feeling that somehow we in this society are at odds with one other. There is this attempt to create a sense of unease.

This piece of legislation is intended to do just the opposite. What we are trying to do is to create an atmosphere whereby the citizen who has a genuine complaint can feel comfortable about going to a police station and to a police officer and making his complaint, knowing full well that his complaint will be investigated and that there will be an impartial body monitoring the conduct of that investigation.

4.00 p.m.

Mr. President, I, therefore stand in support of this Bill and I, therefore, commend it to this honourable Senate.

I thank you, Mr. President.

Sen. Diana Mahabir-Wyatt: Mr. President, I think that the legislation which is before us is essential and I think it is desirable. I think it is a very rational way

of dealing with complaints against the police service and I commend the Government for bringing this piece of legislation before Parliament.

I agree with the points that various Members have made that there is a need to guard against spiteful or frivolous complaints and I see that this Bill includes certain provisions to look after that problem. One of the problems is that power will draw fire. The police do have power and there are going to be complaints simply because they have power over other people.

I think that it is also true that those who are in power, whether they are in power in terms of force the way the police are, or power in terms of Parliament the way we are, can sometimes be supersensitive to criticism, can even be resentful of any criticism whatsoever. In fact they can often attribute to the critic influence that he or she simply does not have.

I note that the Bill before us, does take certain precautions against frivolous complaints and I am glad to see this. I take Sen. Daly's point entirely that the police must be protected against this kind of thing, but I think we can take some of our worries a little too far.

Clause 5(a) of this Bill refers to the conduct:

"5. The functions of the Authority are to—

(a) receive complaints on the conduct of any police officer..."

I would like to make a point here. It is perhaps a very brief point, but I think it is a point that is very important. I am hoping that the Minister of National Security will reassure me on this point. From what I read, the conduct that is being complained of here is not conduct which is limited to conduct on the job or conduct while in uniform. In other words, this is any conduct by any police officer which, I assume, can call the police service into disrepute.

For some time now, I have been in touch with a number of people in this country who have had reason to bring complaints against the police but have not been able to do so. I would like to take special note that—if I am correct in this—if any member of the public can complain, then members of the public, including members of policemen's families, neighbours, relatives, including their spouses and/or children can make these complaints.

I say this because for some time the movement in Trinidad and Tobago against domestic violence has taken note, with a great deal of concern, that there is much

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spousal abuse and battering and battering, and abuse of children, unfortunately, amongst members of the protective services.

I have spoken on a number of occasions to several different commissioners of police about this, virtually begging that some sort of internal machinery be set up to deal with this situation. It is not a secret. It is known openly amongst members of the police service themselves who will speak about it with a great deal of sorrow. But I think the point was made more than once today that very often when people go to a police station or to various officers in the police service and I think that the hon. Attorney General made reference to this, as did Sen. Rooks in many instances complaints are not really taken on.

It is somewhat like medical doctors, in that where it comes to a complaint about domestic violence, there are very few occasions when a policeman on duty in a police station will take any notice of such a complaint, especially if the complainant happens to be female or if the complainant is a child. Such complaints are not noted. I do not know how that is going to be helped by this particular piece of legislation, although I have seen the schedule which talks about the name and address of the complainant, and then the rank. This presumes it will be easy for any member of the public to discern the name, rank and number of the officer against whom the complaint has been made. This is not always so. Rank and number are things which are known within the police service and not always to lay people. But perhaps, if one is close enough to be a spouse, child, family member or neighbour, one would know.

I think that, like medical doctors, in my experience, police officers very often just will not investigate seriously or pursue charges, especially charges of domestic violence and abuse against any of their brother officers, and I have to add sister officers, because this is not limited to one gender.

There have been instances when we have had reported to us severe battering of children which has not been done by a male police officer, but by a female police officer who is in a family relationship to the child.

I think that the Minister did say—and I cannot remember if it was in this forum or in another—that it was the intention that people who were going to staff this particular division were to be very specially chosen. I recognize that this is absolutely necessary. I honestly do not know what the answer to this is. Even those who are specially chosen, are they going to be willing to proceed against a fellow officer, a brother or a sister officer, on these kinds of charges? I am just

worried about the division's ability to operate. I do not have an answer. I just hope the Minister has an answer. I know that the Minister is not God; he cannot ensure that perfection is going to be achieved. On one hand, I can ask who would be better to investigate the problems which exist in the police service than members of the police service? On the other hand, I also have to ask, who can be expected to indict a brother or a sister officer?

I just wish I had answers and I just hope that the Minister can reassure Senators and members of the public, because there are many women who have taken complaints to various stations or who have made complaints to one police officer whom they trust, about battering or abuse on the part of another and what happens, of course, is that news of that complaint goes back to the person who has done the battering or the abuse and the spouse who has made the complaint gets beaten and abused far worse than before.

The upshot of that has been that over the years women are just too frightened to make a complaint about battering or abuse against anyone who is in the police service. I am sorry, it is a fact of life and it is an unpleasant one. I hope that this particular Bill, because it is a Police Complaints Authority Bill, will specifically attack this question or specifically address it.

I worry, as well, about action that can be taken under this Bill. This is not a worry that is unique to me. A number of other people have mentioned it, but under clause 27 of the Bill, any report which is made by this particular division to the authority has got to go to the Police Service Commission, which is a body which is, in effect, in disciplining police, which point has been made several times today in several different fora.

According to the police themselves, and according to the officers of the police associations, the machinery of the Police Service Commission is very cumbersome, it is slow, it is removed from the act itself and I still maintain—not by any means wishing to disrespect the fabric of our institutions or our infrastructure—the efficiency of the police service in terms of its discipline seems to be hampered by the fact that the discipline that can be enacted by the Police Service Commission is so far removed from the actor, from the person who has committed the problem.

The public has been told, in a different forum, if a member of the police service commits a serious crime, or is one of the hard core of people who promote drugs or is guilty of very serious breaches of the law, that the only way to deal with such officers is to retire them or put them on early retirement. In fact, the

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Commissioner cannot do anything about it, the Commission cannot do anything about it; nothing apparently can be done to a police officer who commits a crime. So one wonders about the structure. I have the greatest of sympathy—I can see Sen. Draper sitting chewing his finger in thought, and I know how hard he is working to try to make the public service more efficient, but when we have commissions which, in fact, are part of the structure and we are just addressing the systems, I sincerely worry that we are not going to be able to do anything effective. The information that came to me that this was so, came from a member of the police service, in fact, an officer of one of the associations which represent the police.

I know to change the situation would require a constitutional change, and I have also noticed that the Leader of the Opposition has within the last two weeks, publicly expressed his willingness to accept the need for such constitutional change if it is going to help improve the situation of law and order in the country and improve the security of the country.

I mention this because I am as concerned as everybody else, and certainly as concerned as the Attorney General has expressed himself to be, and the Minister of National Security, that whatever the problems within the police service, whatever the problems of discipline, whatever the problems in relation to the public, it is important that the country has the confidence which it used to have in the police service returned to it.

Quite frankly, I do not care what it costs. I do not care in dollars and cents how much it costs to set up this particular machinery. As far as I am concerned, I want it to be effective, and it is worth whatever it costs the country. I hope that comments or criticisms about dollars and cents are not taken too seriously into consideration. There are certain things that are above the price of pennies, nickels and dimes.

In concept, Mr. President, I am very glad that this Bill has come before us. I am glad that the Government has finally taken this action. I think that it is positive. I think it is healthy, I think it is a sign of concern and caring. As I said, this is so until I get to clause 20, where I am worried about the lack of teeth and bite, where the investigators can only nibble and send notes on to the Police Service Commission. I must repeat that it does worry me.

Clause 20 refers to the regulations and we have seen, unfortunately, in the last week, the sort of contempt that certain members of the police service have for

regulations. I am really sorry for the Minister. I know that on one hand he is being urged to militarize the police service and turn it back into a police force and on the other hand he has been urged to civilianize it, I think the term is.

I think everybody in the Government and everybody in the Parliament wants to reform the police service and wants to reform the prison service and wants to reform the various disciplinary forces in the country. I think that the problem is that no two bodies or no two people can really decide exactly what should be done.

I, too, have asked for a long time for a copy of the O'Dowd Report, I would very much like to see it. But I do not agree that any reform has got to wait until the entire structure has been changed before we can take one step. I am very concerned because of what I see coming up in the country over the next 24 months that we start to get our house in order now. We do not wait until we have an architect and all the cash to build a whole mansion and do without a mortgage. I think whether we do it one step at a time or we do it in one huge gulp we have got to start somewhere.

I do think I would feel better, as Senators of the Opposition would, if we had at least an outline framework that we knew we were working towards step by step. But I am glad to see at least something has started.

I do not pretend to know, to have, all the answers. As I say, I feel strongly that Parliament should be given an overall structure, an outline of what is happening so that we can watch progress and get the feeling, along with the rest of the country that we are achieving the goals of stability and law and order that we need so desperately.

I would like to also support the comments which Sen. Daly made, and I would like to support the amendments which he has moved. In reference to clause 5(c) the "annual reports to Parliament", I do not see any reason why we cannot have an annual report to Parliament as well as annual reports to the Minister. I also do not see why the annual report to Parliament cannot be made after the report goes to the Service Commission.

I think the concern is great enough in all of us that we do not want to interfere with the work of the Service Commission, but at least we can get a report once a year reflecting what has been done by the Service Commission. Because, like everyone else, as long as the Service Commission is there, I am very much afraid

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that nothing is going to be done unless a report has to come to Parliament and the pressure is put on that something has to be monitored.

I accept and support the protective measures that Sen. Daly has suggested and I fully endorse the reasons which he gave for this.

In closing, Mr. President, I would just like to echo a remark that was made, again by Sen. Daly, and say how gratified I have been over the last week, a little over a week, by the ordinary police officers who have commented on the progress of this debate and on the Bill itself and have had the opportunity to express their views on this Bill and their support for it.

I have noticed a great deal of concern amongst ordinary rank and file police personnel for the image of the police service, which they are very proud of and loyal to. I think that they desperately want to have the image of the police cleaned up, the tarnish removed.

I am very gratified to note that they have been able to somehow follow this debate and in some cases have even commented on the Bill itself, although I also take note of the unfortunate fact that officials of the Associations have said that they have not had a chance to see it or to read it, which I think is a shame. I think that good communication is essential in something like this. I support the Bill and I support the amendments suggested by Sen. Daly on these grounds.

Thank you, Mr. President.

Sen. Dr. Kuarsingh: Mr. President, before the Senator resumes her seat, I wonder whether she could clear up a matter for me. She had said earlier in her contribution that the hon. Leader of the Opposition said that he was prepared to support such changes to modify the Constitution to facilitate improvement of the police service. Could she perhaps explain this a bit more to me? *[Interruption]*

Sen. Mahabir-Wyatt: Mr. President, if you allow me, I will answer the hon. Senator's query.

What I said, in fact, was not exactly what was just said. What I said was that in another forum but in public, the Leader of the Opposition had said that he was willing to consider constitutional change where it came to dealing with commissions like the Police Service Commission, if this would contribute to law and order and stability in the country.

He also made it quite clear that his willingness to consider this kind of constitutional change was within a framework—which I think the Opposition has said many times—of the total changes the Government wished to make. But he was not opposed to considering constitutional change.

I thought it was quite a substantial breakthrough.

Sen. Nirupa Oudit: Mr. President, I wish to lend my support to this Bill and also, for the record, to the amendments that were circulated by Sen. Daly. Quite frankly, Mr. President, I think that the more quickly this Bill is enacted, the better for us as a country.

Many thousands of citizens were extremely disturbed about what happened on Friday, February 5, 1993 when policemen in uniform marched around the Red House.

As a citizen of this very small country of Trinidad and Tobago, this small country with very manageable problems, I wanted to be able to do something about this. I wanted to be able to complain to someone, to lobby, using due process of law and proper channels that these officers be disciplined in some way.

Although I know that the primary purpose of this Bill is not meant for this kind of action which we would hope is not repeated, people's feelings in this country were such that I have no doubt that they would have come forward under this Bill to register complaint.

It is not that the public in this country is not sympathetic to the problems that the police face. With all that has been said, written and commented upon about the police service in Trinidad and Tobago by and large, the police service in this country still has the confidence of the public of this country. I want to repeat that: The police service of Trinidad and Tobago, by and large, still has the confidence of the public of this country—on behalf of whom they are contracted and paid to protect and serve and to uphold the laws.

The public sympathizes, but the public will never, ever condone that the people who are hired and paid to uphold the law in this country, with impunity would break the law with no disciplinary action taken.

Whatever confidence exists between the public and the police service of this country must be jealously guarded. It must be kept. We cannot afford to lose any more ground if we want to move forward as a nation. Therefore, enact this legislation quickly and give it teeth. The vast majority of citizens of this country

do not subscribe to this culture of 'victimhood' which the noisier members of our society project.

The silent majority operates within the painfully slow but necessary process of the law by which all civilized societies are governed. These are the citizens who will use the Authority and the mechanisms suggested by this Bill to weed out whatever negative elements exist in the police service and to serve as a watch-dog on the quality of our police service on a long-term basis.

Thank you, Mr. President.

Mr. President: I do not think anybody else is interested in joining the debate at this stage but before I call on the Minister of National Security to reply, I think it is convenient time to have a break in proceedings.

The sitting is suspended for half an hour. The Senate will resume at 4.55 p.m.

4.25 p.m.: *Sitting suspended.*

4.55 p.m.: *Sitting resumed.*

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. President, I had intended to be about two hours, with your leave, of course, but the Attorney General took some of the sting out of certain matters I intended to raise. And I have now been whittled down to a few minutes, since we have quite a number of matters to be dealt with at the committee stage.

I first want to deal with certain concerns expressed by Sen. Diana Mahabir-Wyatt. One of the questions raised was the conduct of all police officers, whether they were in uniform or out of uniform. It is intended that this legislation will address complaints against police officers, whether they are in uniform or out of uniform. It must be so, because of various complaints received on officers who at the time may not be in uniform. One readily comes to my mind, for instance, on Friday last at the Panorama show on Independence Square, where a police sergeant, out of uniform, got into an altercation with two other chaps, one who actually was so deformed that he could hardly even walk; and there was this police sergeant pulling a gun and pushing it in somebody's face, and had to be restrained. That is the type of problem we have in this country today. So the legislation is, in fact, intended to address complaints made on officers whether they be in uniform or out of uniform.

A concern was expressed with reference to the Form of Complaint which is at the back of the Bill. We anticipate that there will be some difficulty in

obtaining the number of some of the police officers. But we are in a situation—and Mr. President, pardon me for being very blunt and frank, because this Parliament and the nation have to be aware of what we are faced with. We have arrived at a situation where police officers, who may run afoul of citizens going about their business, and who may threaten the policeman that he is going to be reported are being readily given the numbers. The police officers themselves say, "Take meh number nuh; nobody ain' go do me nutten'." This is the kind of thing we have going on.

Yesterday I received two complaints of a similar nature occurring outside a post office, where a citizen was *farse* enough to ask a policeman what time he was supposed to be on duty, because the post office opened 15 minutes late. The allegation is that she was subjected to a tirade of abuse about "He running the show—when he reach is then it open." But let me not say anything further, before my friends Sen. Capildeo and Sen. Kwabene jump on me and say I am vilifying the police. But we have to understand what we are dealing with, and I may be putting my life—for a pittance of a salary—on the line, by trying to make the arm of this state that is responsible for law and order one that we can all be proud of. I am certain if somebody were to pass me out tomorrow morning, all of you are going to come here and bow your heads solemnly and utter a prayer and say, he was a good boy while he lasted.

Sen. Capildeo: I am not too sure about that one.

Sen. The Hon. R. Huggins: I may be fortunate to get a posthumous medal. It may not even be the Trinity Cross. But I have given my commitment to this nation to deal with a problem; and you can rest assured I am going to deal with it to the best of my ability.

Sen. Capildeo: Gun talk!

Sen. The Hon. R. Huggins: A statement was made by a representative of the Police Service Association, the Second Division, that we should retire police officers against whom we may have complaints, which you cannot justify for the purpose of bringing criminal proceedings. But I have to agree and I think I must commend Sen. Wyatt on the excellent job she is doing on her *Breakfast Club Show*. I think Sen. Wade Mark did her an injustice when he referred to it as the Breakfast Shed show. But we know that Sen. Wade Mark is capable of making these—anyway let me leave Sen. Wade Mark. I have some place else for him.

Sen. Capildeo: Golden Grove?

Sen. The Hon. R. Huggins: Concerns have been expressed about the O'Dowd Report and the willingness, or unwillingness, of the Government to lay the report in Parliament so that everyone can be apprised of the moves that the Government is making to address reform in the police service. In answer to a question last week, posed by Sen. Merritt, I indicated that an Executive Summary of that Report will be laid in Parliament shortly. It is just costing me \$5,000 to produce the Summary, which is only about 60 pages.

I have also given instructions for a copy of the entire report to be placed in the Parliament library. That is about 600 pages and I only hope that, after I am put under all this pressure to lodge a report, all Senators would find the time to go and sit down and do as I have done—read the report from cover to cover. But I have to do it so that I can properly carry out my responsibilities.

If I may deal with a few of the—I thought my learned colleague the Attorney General would have left Sen. Capildeo for me, but he dealt with him enough. I will not put the Senator through any more torture.

But I would just want to point out one thing to him, that it is not the first time that he has done it—coming to this Parliament and making reference to legislation which has been repealed. In this connection, I refer to the Police Act of England, 1976. He said when you are copying people's legislation you must copy it right, and that type of thing.

5.05 p.m

I would like to advise the Senator that he should get hold of the Criminal Evidence Act, 1984, which repealed that very said provision he referred to, dealing with the establishment of the Police Complaints Board in the United Kingdom. But lawyers are wont, at times, to quote bad law and hope for the best, but we will not allow him to get away with that.

I think he referred to the legislation when he wished to deal specifically with the composition of the board and who appoints whom on the board. The majority of the members of that board are, in fact, appointed by the Secretary of State. I did not hear any cry of political interference. I would just like to say, because there are certain concerns being expressed—some were expressed here and some expressed outside Parliament—about my responsibility in respect of the police service.

Section 79 of the Constitution says, the President, acting in accordance with the advice of the Prime Minister allocates to Ministers, responsibility for any

business of government, including the administration of any department of Government.

Section 85(1) clearly defines ministerial responsibility to be the exercise of general direction and control over a department. It says, in full:

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

Clearly, therefore, it is not as far-fetched as one wants to make it to be, that the Minister of National Security shall have some interfacing with the Complaints Authority which this Bill seeks to establish. I cannot speak for anybody else, but I am going to try my best to ensure that this authority works.

Concern was also expressed that I came here and in my piloting of the Bill, I made no reference to the operations of, as Sen. Capildeo puts it, the I and I department in the police service. Let me just give you some figures. For the year, 1991, 535 complaints were received; 456 out of that total were deemed not suitable for further police action; 23 resulted in disciplinary action being brought against officers; 34 attracted warnings to police officers and 22 are still under investigation.

For the year 1992, a total of 881 complaints were received. Out of this number, 35 complaints resulted in officers being disciplined; 59 resulted in warnings; 386 were deemed not suitable for further police action and 401 complaints are still being investigated. Of those 401, about 40 of them have been sent directly from me to the Commissioner of Police.

Another complaint raised by Sen. Capildeo and principally the Opposition Senators, was where they were accusing the Government of bringing this legislation hastily to Parliament. They were concerned about the emergency of the situation. As far back as April, 1992, I gave notice to this Parliament that I was bringing this legislation. Again, in an address which I made to the Senate, I indicated that it would be brought within a week's time. You know I always keep my promises. Here it is.

There are several other pieces of legislation which will be coming to this Parliament shortly. One, in particular, for which there has been a hue and cry, is

that dealing with the private security agencies of this country. But I also take advice and I know my dear friend, Sen. Wyatt has been imploring me on her programme to take some advice and consult her sometimes. I am going to send that piece of legislation to the Estate Police Association for their comments and I am going to give them a deadline by which I should have those comments. Because I want to make it quite clear also, that the Government's legislative programme will not be deferred unnecessarily.

Sen. Dean, it was, who spoke about the frustrations of police officers, and, I think, our dear friend who left us in a huff and a puff earlier this afternoon, also spoke about the large number of police officers who have left the service as a result of sheer frustration. Let me give you the figures of policemen who have left the police service between 1990 and 1992: 135 left as a result of compulsory or voluntary retirement; 45 in 1990; 50 in 1991; 40 in 1992. Seventy-two retired for medical reasons; 21 in 1990; 24 in 1991; 27 in 1992. Seventy-one resigned; 47 in 1990; 20 in 1991; 4 in 1992. Sixty-six abandoned their jobs; 52 in 1990; 12 in 1991; 2 in 1992. Let me tell you, a lot of those who have abandoned their jobs, the majority of them were on sick leave and I took a certain course to deal with policemen on sick leave for two and three years. So far, only two have come in, in 1992, but I know there are a lot more who will be deemed to have abandoned their jobs. But the majority of them left this country, went on sick leave in greener pastures to get medical attention and no one heard from them after that.

But, as you will see, in 1992, as I said, there are only two. This may be indicative of the support that I will get from the police service for what I am doing. It surely shows to me a burning desire to come back and play their part in the reform of the police service.

Dismissal in consequence of disciplinary proceedings, one. That was in 1990. None in 1991; none in 1992. Termination of employment—the case of a police officer on probation—one. So between 1990 and 1992, we had 346 police officers who left the service. There were some who left as a result of death, but that could not be helped.

The facts will show that none left on the basis of frustration. So, let us just put that to rest.

5.15 p.m.

We recognize that there is a problem in terms of police accommodation, vehicles and other conditions of service. This Government has not hidden the fact that we recognize that there are problems with these things.

I have been trying, since I took up office—in fact, I should say the Government, because it does not only affect my ministry. It affects the Ministries of Health, Works and Transport and Education. The effect is right across the board, and we have been fighting to deal with this problem. I have been accused of dragging my feet on the Princes Town Police Station issue. I have visited that police station and saw two caravans in the yard, one empty, the other with one desk in it and the police station fully occupied, save for the part that is leaking.

I have been negotiating with Republic Bank Limited to acquire a building to place these police officers in, so they will feel much better in the execution of their duties. I only have a few dollars left in the Maritime programme, and I am juggling to move that money away from Princes Town to go to Sangre Grande and try to get into a lease/purchase arrangement with Republic Bank. One has to find ingenious ways of dealing with this.

Sen. Capildeo: What is the Maritime programme?

Sen. The Hon. R. Huggins: It is a \$99.25 million design/finance/construct programme, which started some time in 1989 where, I think, about nine police stations were to be constructed. When I took up office, I think about eight were constructed, and I have been doing a rationalization exercise, together with Maritime. It was the Government's view that not enough work may have been done in the allocation of these stations, given the size of districts. What we have been trying to do is to pull back stations from one area where there may be a greater need for them in another area. It is a fixed contract and there is very little scope for manoeuvre, but I have been fighting with the situation.

These things cannot be solved in one day. I suggested we buy bicycles, everybody started to laugh; I went to motorcycles, everybody started to laugh, but that is the way to go; we have no money. It makes no sense just coming in here, standing up and saying "we are treating police badly and we are looking to bring this Bill to deal with them rather than fix it". We are working on everything. One of the problems, too, is that there are not proper systems in place, and this is intended to put a proper system in place to address one of the greater concerns of our citizens.

There is the perception—and I know, again, Sen. Mahabir-Wyatt will know what I mean when I say perception, since it is a word that seems to give her *Breakfast Club* a lot of problems in understanding—that when police have to investigate police without there being any sort of supervising body that nothing is

done. Having read out these statistics, one can very easily come to that conclusion. Now, I am not saying that is the conclusion one must come to, but, again, one has to deal at certain times with perception. We, in our wise judgment, thought that this is the way to go about it. Sen. Kwabene would know what I am talking about; when the police roughed him up on Queen Street, very early in his term, he complained to me. But, he still says that I am trying to run the police service. He should have gone to the "I & I Unit". He came and complained to me. He wanted me to "deal with it".

Mr. President, I think one of the concerns that are being expressed, and I also believe it is something that one should be very wary of, is the relationship between this body that we are seeking to establish here, and the Police Service Commission, as well as the Police Service Regulations and the Police Service Commission Regulations. Discipline is something dealt with under the Police Service Regulations and the Police Service Commission Regulations. This Authority cannot be given any power to discipline anybody, because that is going to run afoul of the Police Service Commission Regulations.

I see in the proposed amendments submitted by Sen. Baksh an amendment seeking to give the authority some disciplinary powers. That is not possible without an appropriate amendment to the Constitution. This is something that we are working on. The Leader of the Opposition, although he may not have communicated this to the Leader of the Opposition in the Senate, has, on Sen. Mahabir-Wyatt's programme, given an undertaking to join with the Government in addressing this problem, in a framework of the commissions, and we would take him up on that. *[Interruption]* It is all towards reform.

Sen. W. Mark: Mr. President, while the Minister is on the Opposition, may I have some clarification on two points from him? Firstly, could the hon. Minister indicate to us whether his Government has estimated what the cost would be to establish this authority? Secondly, in my contribution, I did ask the question whether the Government is going to take any action to desist from the practice of employing SRPs on a full-time basis, although they are temporary?

Finally, *[Interruption]* No, no, these are questions I raised in my contribution and I get the impression that the hon. Minister is winding down. So, I would like him to clarify these points and—

Mr. President: This is the carnival season, so maybe you should say "he is concluding".

Sen. Mark: Yes, he is concluding his remarks. Can he tell us, Sir, whether there is an active policy on the part of the Government to discriminate against women in terms of employment at the level of police service?

Sen. The Hon. R. Huggins: Mr. President, insofar as the SRP question is concerned, I think that is really irrelevant at this point. But, because of the mischief which the last question could lead to, I want to make it quite clear, again, that this Government practises no discrimination. We do not want anything to do with... I want to make this clear also—because, it is being put on the Government: the Government does not have any authority to employ persons in the police service; that is a function of the Police Service Commission; they hire and they fire. I have nothing to do with that, the Government has nothing to do with that. I want that to be understood. I had to advise the *Express*—and I want to praise them for apologizing, because newspapers do not always apologize—when they called on me to discipline the police.

5.25 p.m.

I went on at pains to point out to them that I cannot discipline any police. The power to discipline for many offences has, in fact, been delegated to the Police Commissioner by the Police Service Commission. For example, the power to suspend is now vested in the Police Commissioner. That function was delegated, I think, somewhere back in 1987. I am subject to correction. The Police Service Commission has not yet seen it fit to delegate any disciplinary power to the Minister of National Security nor, do I think they could do it.

Sen. W. Mark: Estimate the cost.

Sen. The Hon. R. Huggins: I will deal with that at an appropriate time—I must advise that the Member is acting as my junior Minister, so that I can accommodate my time with more strenuous matters.

One of the problems I am having is that the Opposition Senators all say the same thing and when you deal with one, you basically deal with all.

Sen. Baksh raised the point of corruption in the police service. This Bill will not deal with corruption. Corruption has to be dealt with within the police service. When I say within the police service, proper systems have to be put in place within the police service to deal with corruption. It is no secret in this country that this Government has been moving expeditiously to deal with corruption in the police service but you can see some of the flack we are getting for doing it.

Mr. President, it is my respectful submission that the Government is moving in the right direction when it seeks to put in place this Complaints Authority Bill. It is an authority which is designed, as the hon. Attorney General was at pains to say, as an independent civilian authority to give that feeling of fairness and impartiality in dealing with complaints made by members of the public against police officers.

Many of the contributions were very pessimistic in whether this will work. All I can ask, is to let us give it a chance. You have a strong Minister in place and he is going to do everything within his power to ensure that this gets off the ground, and that it works. Not only the many decent and upright citizens who are members of the police service, but the police service as a whole will once more feel proud. If they know that they can stand up to scrutiny then they will stand up to scrutiny and will have nothing to hide. I feel very certain that this legislation will have the desired effect of giving the feeling to members of the public that their complaints will be dealt with. Therefore, I wish to commend this Bill, not only to the Members of this Senate, but also to all citizens of this country. I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3.

Question proposed, That clause 3 stand part of the Bill.

Sen. W. Mark: Mr. Chairman, I beg to move, that clause 3 be amended by substituting for the definition of "police officer" the following definition:

"means a member of the Police Service established under the Police Act, Estate Constables Act, Supplemental Police Act or the Special Reserve Police Act."

Mr. Chairman, we understand from the definition that this Police Complaints Authority Bill would only impact upon police officers who are established under the Police Service Act or who are employed or are members under the Police

Service Act. We pointed out during the debate that there are officers at present who wear police uniform and are known as SRPs (Special Reserve Police). Then you also have policemen operating under the Supplemental Police Act.

A policeman is a policeman in terms of when persons are confronted. For instance, if an SRP does something that is not in a citizen's interest, would that citizen have access to the authority? What we are seeing is, no. The person would not have access and therefore, our amendment is designed to pull all police officers under that particular arrangement. So that whether it is an SRP or someone falling under the Supplemental Police Act, if that officer does something that is not consistent with civil, human rights and dignity, then the citizen concerned ought to have access to the Complaints Authority to lodge the relevant complaint.

It is against this background that we have sought to incorporate the various services under this definition and to broaden it. In the Bill it is rather narrow and we are submitting that the hon. Minister of National Security take a second look at the definition of "police officer".

Sen. Huggins: Mr. Chairman, we cannot support the amendments suggested to clause 3 insofar as the definition of "police officers" is concerned. Sections 9, 10, 18 to 20 of the Supplemental Police Act indicate that Parliament intended to treat with rural police and supplemental police in an entirely different manner from police officers appointed under the Police Service Act. The nature of the appointment of such officers is that there is no security of tenure and hence, dismissal under sections 18 and 20 is by the Commissioner of Police or the employer subject only to the right to a hearing granted to the estate and rural police.

The procedures for the removal of a police officer under the Police Service Act are not the same. They are subject to elaborate procedures under the Police Service Commission Regulations. Further, the investigative machinery required for the police officers are necessary, therefore, in relation to rural and estate police constables.

5.35 p.m.

Section 5 of the Special Reserve Police Act makes provision for summary dismissal by an officer in command of the division in which the special reserve policeman is employed.

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It is clear therefore that the nature of the legislation which governs estate constables under the Supplemental Police Act, is not the same as for special reserve police constables under the Special Reserve Police Act, and they cannot be dealt with in this legislation.

Sen. Capildeo: May I suggest to the Minister that we are back again on principle. This is the Police Complaints Authority Bill. The principle is for citizens to be able to complain about acts done by the police against them. If that principle is to be upheld, then it seems to me that this Bill should cover any citizen who confronts, or is confronted by someone clothed with the authority of a police officer.

It is not a question of whether the SRPs could be dismissed, or the supplemental police could be dismissed, or the estate constables could be dismissed, or whether there are separate rules and regulations for those people. The principle is that a citizen who has a complaint against a police officer must be able to come, under this legislation to complain. Why exclude all these people?

In the confusion that is going to take place when you have an SRP abusing a civilian, and the civilian says, "I want to complain", he will be told, "you cannot complain under this law." It means that you are going against your own principle. If the idea is to protect the citizen, and give the citizen a chance to legitimately air complaints against people in authority, in the garb of police, or with the authority of police, that right should be applied to all police, be they police, estate constable or Special Reserve Police. You are truncating your own principle here.

This has nothing to do with whether there are different rules, or whether they can be disciplined and dismissed. This Bill has to do with the complaints of citizens against people in uniform; against people who are purporting to act as police. That is what the principle is, otherwise tell me you have a different principle.

Sen. Huggins: Take for example, there are estate police officers employed with the City Corporation. They cannot be disciplined by the Police Commissioner.

Sen. Capildeo: We are talking about complaints.

Sen. Huggins: But what is the point of putting them here and the Police Commissioner cannot even give an instruction where they are concerned? You are

courting confusion. We are reviewing at this point the time of supplemental police officers. Until such time as that review is completed, it is not possible to include estate constables and special reserve police officers here, because there are different procedures altogether that are employed in dealing with these people.

Sen. Capildeo: When you look at the functions of the authority, your authority could receive the complaints. The authority could report to the Minister about the complaints, and then the Minister could take it from there.

Sen. Huggins: That is the city police. That is the Mayor of Port-of-Spain. I am not even the Minister responsible for Local Government.

Sen. W. Mark: We have all originated from the plantation economy in the region. I have before me, the Police Public Complaints Act, 1992 of Jamaica. In the Jamaican Act, "constable" incorporates all that we are talking about. They call them constable; in Trinidad and Tobago, we call them police .

Sen. Huggins: The Jamaican legislation is different.

Sen. W. Mark: We are arguing here—and sticking to our guns—that if a citizen is abused in the society, by any person in uniform, who is paid by the state coming under the police service area, be that person SRP, supplemental or what have you, the citizen has a right to go to the Complaints Authority and lodge an appropriate complaint.

What this measure is attempting to achieve is to exclude some, and to include others. We have a difficulty with it. We ask the Minister to take back this legislation, and get it properly organized before we can support that element of it, because we are sticking to the point that the other police officers ought to be brought under control. If it means, as the Minister was saying earlier, that they need to regularize these SRP and supplemental police forces, do that. Go and regularize them and stop making them temporary full-time officers.

Question, on amendment, put and negatived.

Clause 3 ordered to stand part of the bill.

Clause 4.

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

Mr. Chairman: I think the Minister and Sen. Baksh have amendments to clause 4.

Sen. Baksh: Mr. Chairman, I beg to move, that clause 4 be amended by adding the words "and shall be an independent authority" after the word "Act" in line 3.

We have stressed, in giving our contributions, the need to have an independent body to deal with these complaints. I will not repeat what we have said here.

Sen. W. Mark: I do not think the hon. Attorney General would have any problem with that.

Sen. Huggins: Would the hon. Senator explain to me what that means? I really do not understand what that means.

Sen. Baksh: Mr. Chairman, if you noticed, nowhere in this Bill is the word "independent" mentioned.

Sen. Huggins: Clause 18 says:

"Subject to the provisions of the Constitution relating to the powers of the Director of Public Prosecutions and the Police Service Commission, the Authority is not subject to the directions or control of any other person in the exercise of its powers."

Mr. Sobion: "Independent authority" is not really a term of art. The powers and functions of the authority are spelt out in the Bill, and it is independent, insofar as the Bill circumscribes its powers and functions. It is unnecessary to include those words in clause 4.

Sen. W. Mark: We do not accept that argument.

Question, on amendment, [Sen. Baksh] put and negatived.

5.45 p.m.

Mr. Chairman: There is another amendment to clause 4.

Mr. Sobion: Mr. Chairman, I beg to move that clause 4 be amended as follows:

That the word "function" be deleted and the word "functions" be substituted.

This is just a minor amendment.

Question, on amendment, put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5.

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

Sen. Daly: Mr. Chairman, I beg to move, That clause 5 be amended by renumbering subclauses (c) as (d) and (d) as (e). So that (c) would remain as it is, the (c) that I propose would become (d) and the existing (d) would become (e).

Mr. Chairman: Are you making any changes to what is written here?

Sen. Daly: No, Sir.

Question, on amendment, put.

Mr. Sobion: It appears to me that the authority has no real link with Parliament, and whilst, in principle, we have no objection to some form of reporting to Parliament, the Minister must be the one who must lay this report in Parliament. In the circumstances, what I am proposing is that a new clause be added.

If one looks at the marginal notes, clause 5 as it stands deals with the functions of the authority, but this is really a function of the Minister who is responsible for the report in Parliament. I am in the process of completing a redraft which could be added as a new clause which would permit a report to be laid via the Minister, on an annual basis.

Sen. Daly: I took this from the provisions relating to the Ombudsman. I did not dream it up. The Ombudsman Act talks about making annual reports. What is the difficulty?

Mr. Sobion: I understand what Sen. Daly is saying. The Ombudsman, however, is a different category altogether. He is in fact an officer of Parliament and he has direct access to Parliament. This authority is being created by statute and the Minister is the person who properly should lay any information coming from the authority to the Parliament.

Sen. W. Mark: Do you want to look at clause 17(a)? Do you have any problem with that?

Mr. Sobion: Well, I have a draft which is wider than yours and which I am proposing as a clause 42. It should go at the end of the legislation.

"(1) The Minister shall cause an annual report to be prepared by the Authority in accordance with section 5(c) and should, as soon as possible after he receives such report, lay it in both Houses of Parliament.

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- (2) The report should contain details of the complaints received by the Authority and the results of the investigations carried out by the division, save however, that the Authority may omit names of all parties concerned."

I have not quite finished. It should really be a clause 42 coming at the end of the Bill.

Sen. W. Mark: We can live with that. Just draft it properly and we will come back to it.

Mr. Chairman: Are you proceeding with your amendment?

Sen. Daly: I do not know, Sir. I have not got anything as an alternative to consider. It is not as though I did not give over 24 hours notice of this. So, we leave it now and what do we get?

Mr. Chairman: I have an amendment from you before the committee. The Attorney General is proposing a new clause which will have to be taken after we have disposed of all the clauses in the Bill. I want to know whether you are prepared to have your amendment put?

Sen. Spence: Mr. Chairman—

Mr. Chairman: Do you want it deferred? Is it the wish of the committee to defer clause 5 for consideration later? Go on to clause 6.

Clause 5 deferred.

Clause 6.

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

Sen. Baksh: Mr. Chairman, I beg to move that clause 6 be amended by substituting in clause 6(1)(b)(i), the word "request" for the word "summon". We are of the opinion that the word "request" will not have the power that the word "summon" would have which would make it mandatory. That is the reason for our amendment.

Sen. Capildeo: "(b) in the case of a review of a complaint to—

- (i) summon all or any of the parties concerned..."

It goes a little bit beyond request. So, you summon and get a definite response. I do not think there could be any objection to that.

Question, on the amendment, put.

Sen. Huggins: It does pose a problem. I really do not see the need to change "request" to "summon", Mr. Chairman.

Sen. Capildeo: A request can be ignored.

5.55 p.m.

Sen. Huggins: So can a summons.

Sen. Capildeo: That is a different proposition.

Sen. Huggins: It is not a different proposition.

Sen. Capildeo: When you ignore a summons—

Sen. Daly: In the absence of a specific sanction, I mean, you may want to put "summons" as a kind of cosmetic thing.

Sen. Huggins: That is how I am seeing it, as a cosmetic change.

Sen. Capildeo: What is the hesitancy?

Mr. Sobion: Mr. Chairman, I think Sen. Daly is quite right. I think unless there is a specific sanction attached to the power to summon, then it means nothing other than a request. In this circumstance, I think we would go with the draft as it is.

Sen. Daly: I just want to make the point, of course, if you use the word "summon", then at least the documentation can fool people and say they are summoned.

Sen. Huggins: The last thing I want to do is fool people. It remains as "request".

Question, on amendment, put and negatived.

Sen. W. Mark: Mr. Chairman, this is a serious point. I was about to call for a division on this, but I think I will not do so. I take the Attorney General's point that if there is not the question of sanction there—so we just give them a warning shot and we will continue.

Clause 6(2).

Mr. Chairman: We have another amendment proposed by Sen. Baksh to clause 6(2).

Sen. Baksh: Mr. Chairman, I beg to move that clause 6(2) be deleted and include a new subclause (2) as follows:

"That the Authority has the power to institute disciplinary charges."

In view of what the Minister explained during his closing remarks, I should like to withdraw this suggested amendment to clause 6(2).

Amendment withdrawn.

Clause 6 ordered to stand part of the Bill.

Clause 7.

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

Sen. W. Mark: Mr. Chairman, I beg to move, that clause 7 be amended by deleting in subclause (1) all the words after the word "President" in line 2 and adding the following words:

"acting on the advice of the Prime Minister and the Leader of the Opposition".

We believe that this matter is extremely important. It is the first time that Trinidad and Tobago would have a Police Complaints Authority and we would want to have as much impartiality in this body as we can and at the same time we want to have consensus as far as is practically possible.

It is against this background that we are suggesting to the hon. Minister to support this amendment. So that, for instance, the people who are going to be making up this particular Authority would be able to have the blessings of both the governing party and the Opposition party. This is why we suggested that before the President makes a final decision, he must seek the advice of both the Prime Minister and the Leader of the Opposition.

Mr. President, this particular amendment is consistent with the legislation that has come before Parliament dealing particularly with critical issues like what we are addressing now. We should like the hon. Minister of National Security to give this particular one extreme weight, and take this amendment in its stride in terms of what we are seeking to propose here in the interest of the country.

Sen. Mahabir-Wyatt: Mr. Chairman, I wonder if the proposer of this amendment could explain why it is that he wishes to delete all the words after "President", in line two, instead of just including these after the word "President", in line 2. By deleting the other words, he takes out "on such terms and conditions

as are contained in this Act and in their instruments of appointment", and I cannot see the reason why he wants to delete those words.

I can understand why in his argument he wants to add "acting on the advice of the Prime Minister and the Leader of the opposition" but I do not understand the deletion.

Sen. W. Mark: Mr. Chairman, I think that Sen. Mahabir-Wyatt is correct. I think that is an error on our part because all the other words should be contained. We have no difficulty with what she has suggested.

But we are insisting that this be done, the President acting on the advice of the Prime Minister and the Leader of the Opposition and the remaining words be incorporated. We have no difficulty with that. But we believe, Mr. Chairman, in light of the critical nature of this Bill and the implications that may arise therefrom, it is necessary for us to have the two parties involved in this matter. That is what we want to ensure.

Sen. St. Cyr: Mr. Chairman, it seems to me that on the advice of two people, "advice" could cause a problem. Perhaps "in consultation with". In other words, you can consult both and do it, whereas if you took advice which is conflicting from two different sources you really do not know how to resolve that.

Mr. Chairman: "In consultation with" is the format used in all other clauses of the Constitution.

Sen. Saith: Mr. Chairman, we have to deal with a simple matter. The appointment by the President on the advice of the Cabinet will provide the impartiality that they require.

Sen. W. Mark: No. We are not on that. We make it very clear. We have no problem with even what Sen. St. Cyr has advanced. If, for instance, they want to deal with consultation, although we would prefer the advice—in fact, on another occasion, we will deal with a select committee of Parliament, but for this round, I think that we would want to go with consultation; we would be prepared to live with that.

Mr. Sobion: Mr. Chairman, the provisions of the Bill establishing the authority create a body which is performing a purely monitoring function over what is really an administrative, quasi-judicial function of the division.

The final stage in the process lies with the Police Service Commission and at that level, if one refers to the Constitution, one would see that the Members of the

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Police Service Commission are appointed by the President after consultation with the Prime Minister and the Leader of the Opposition. That is the level at which that kind of consultation should take place and not in the purely administrative functioning of the Police Service.

Sen. W. Mark: We are not supporting that. We remain firm on this point. We think it is a point of principle.

Mr. Chairman: I will put it to a vote.

Question, on amendment, put and negatived.

Clause 7 ordered to stand part of the Bill.

Clause 8.

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

Sen. Daly: I beg to move, that clause 8 be amended by deleting the words "Senior Superintendent" and replacing them with "Assistant Commissioner". I am not pursuing this amendment.

Amendment withdrawn.

Mr. President: There is an amendment to clause 8, proposed by Sen. Baksh.

Sen. Baksh: Mr. Chairman, I beg to move, that clause 8 be amended by adding the words "except Independent Senators" after the word "Senate".

I repeat, that the composition of the authority is of paramount importance and it is fundamental that its members are comprised of men and women whose integrity, investigative and administrative skills would ensure a proper dispensation of justice.

It is with this in mind we wish to submit this amendment.

Sen. Spence: Mr. Chairman, on a point of clarification, is there such a thing as an "Independent Senator"? Or are they not defined as "those appointed by the President in his own right"? In other words, can we use the word "independent" in a Bill?

Mr. Chairman: We prefer you to use "except Senators appointed under section—"

Sen. Baksh: We would be guided accordingly.

Mr. Chairman: It would be, "except for Senators appointed in accordance with section 40(2)(c).

Sen. W. Mark: We do not believe that it was the intention of the drafters to leave out these people who are appointed under Section 40(2)(c).

Mr. Sobion: Mr. Chairman, I think we all appreciate the value of the so-called "Independent Senators". The fact is, that the idea here is to maintain the separation between persons who are performing a function in the legislative arm of Government as distinct from those performing an executive sort of function. It is necessary to maintain that distinction.

While it is an attractive idea to say that Independent Senators can serve, I think it may put them in somewhat of a difficult position, and the idea is to exclude those persons who are performing one function of Government from exercising authority in another.

Sen. Spence: Mr. Chairman, if the report is going to be laid in Parliament, I think the Attorney General is right.

Sen. Rooks: Clause (b) refers to only the five years prior to being appointed; it is not while you are a Senator at the same time.

Sen. W. Mark: But we can have a Senator and so on.

Sen. Huggins: Mr. Chairman, if I may also add, earlier today we were dealing with perceptions. Now, I am not casting any aspersions on the Senators appointed by the President on the Benches and as we use the term Independent Senators, but again we were dealing with perceptions and none of the present Senators could tell me that accusations have not been levelled against them in the past of either being pro-Government or anti-Government.

I distinctly recall in the last Senate where several allegations were levelled against a former Senator, an attorney-at-law, at that, that he may have well been appointed a Government Senator because of the stance he took.

We simply wanted to get away from the perception that if we are excluding Members of the House of Representatives and the Senate, let us make no distinction.

I feel very satisfied, also, that there are many people out there who are aptly qualified both investigatively and managerially, and that we can find the appropriate people to put on this Authority.

Sen. Daly: Well, apart from someone who now works in the Ministry of Information and is presently an employee of the Government who waged a

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campaign against the Independent Senators, I do not think there is any need for references to so-called "Independent Senators".

But anyway, I do not think it is practical for someone to serve on a body and make a report which will then be debated in Parliament. They would clearly have an interest to serve in defending the report and that would compromise the independence. I think that is the argument for not pursuing it.

The argument raised by the Attorney General is a good argument for the Prime Minister not bringing his office here so as to confuse the distinction in separation of powers. But I think the basic problem is a Senator who had to defend his report in Parliament could not defend it objectively or could not be seen to defend it objectively. I think that is a good reason for not imposing that.

Mr. Sobion: Mr. Chairman, just on one point raised by Sen. Daly, I did not think the physical proximity had anything to do with the independence of one arm of Government as opposed to another. Unless there is some sort of perception seen by Sen. Daly that I do not.

Sen. Daly: Alas, alas!

Question, on amendment, put and negatived.

Clause 8 ordered to stand part of the Bill.

Clauses 9 to 15 ordered to stand part of the Bill.

Clause 16.

Question proposed, That clause 16 stand part of the Bill.

Sen. W. Mark: Mr. Chairman, I beg to move, that clause 16 be amended by substituting the following:

"16. The Authority shall employ such members of staff in accordance with the provisions of the Statutory Authorities Commission Act."

This Authority is not going to be using its own funds to employ people; it will be using the funds of the taxpayers of Trinidad and Tobago.

On the issue of accountability, we think it is highly irregular, even in this period of privatization, to give an Authority the powers to hire and fire at will.

Employees must be protected. There must be some mechanism that can provide some protection to those workers who would be employed at this

particular Authority. There is no provision whatsoever in this Bill to safeguard the interests of the employees, whatever rank they may be. *[Interruption]* Yes, I know, you can still join a union, but can I speak? I see hawks are at me immediately, anti-union people. I do not understand this. I thought I would get solidarity. You all are wicked people out there. *[Interruption]*

Mr. Chairman, we would like to advance here that the SASC—because we suspect this is going to be a statutory board and, as I said, they would be utilizing taxpayers' funds, I would like to suggest that the Attorney General, or the Minister of National Security in this instance, look at this amendment very carefully. I know he is also anti-union, but I suspect very much that in this instance he would, in fact, give support to this particular measure and we would like to urge the Government to look at this amendment very seriously.

Sen. Huggins: Mr. President, we are not supporting this proposed amendment. Firstly, because it cannot be done now because certain criteria have to be satisfied before any amendment like that can be made. Secondly, several moves have been made and, in fact, I seem to recall that several statutory authorities have been removed from under the Statutory Authorities Service Commission Act and I do not seem to see them suffering the problem of having worker representation. I seem to recall, I think WASA was under there at one time, as well as PTSC, and the workers still have their full liberty to march up and down the pavement on Fridays.

Mr. Chairman, our position is that that is a suggestion without merit.

Sen. W. Mark: We really feel strongly about this one.

Sen. Huggins: You feel strongly about every one. Why do you have to preface everything with that?

Question, on amendment, put and negatived.

Clause 16 ordered to stand part of the Bill.

Clauses 17 to 19 ordered to stand a part of the Bill.

Clause 20.

Question proposed, That Clause 20 stand part of the Bill.

Sen. Baksh: Mr. Chairman, I beg to move, that clause 20 be amended by inserting in line 1 after the word "Commissioner" the words "in consultation with the Authority."

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Mr. Chairman, in light of what the Minister explained to us, we would like to withdraw the proposed amendment to Clause 20.

Amendment withdrawn.

Clause 20 ordered to stand part of the Bill.

Clause 21.

Question proposed, That Clause 21 stand part of the Bill.

Sen. Daly: Mr. Chairman, I beg to move, that clause 21 be amended by inserting in line 2 the words "the Authority either directly or through" before the words "the police officer". And by adding after the word "Schedule" in line 4 the words "under confidential cover". In clause 21(2) by deleting subclause 2(a). In clause 21 by inserting a new subclause 3 as follows:

"The Authority shall send a certified copy of the complaints to the person making it."

Well, this is self-explanatory and I explained in the debate why it might be useful to emphasize the confidential nature of the complaint.

What I am really trying to achieve, Mr. Chairman, is that if the person takes the complaint to the local police station, they send it under "confidential cover" and then the certified copy, which is the acknowledgment, comes from the Authority, rather than from the police station. If the policeman has to give the certified copy, presumably he has to read it in order to certify it and, therefore, I think that in many cases, that would be awkward for the person making the complaint.

So that it might be best to let the person go to the station, hand it over in a sealed envelope and, subsequently, get a certified copy or acknowledgment from the Authority.

I am not comfortable with the idea of somebody handing the complaint form open to the officer in charge of the station and his reading it and so on. I think there should be some privacy in the complaint procedure.

Mr. Sobion: Mr. Chairman, this provision, was cause for some serious debate at an earlier stage before this matter got to Parliament.

One of the prime considerations was the fact that persons in remote parts may not be able to travel to the Authority's offices. Now, the proposed amendment by

Sen. Daly seeks, in a sense, to avoid that so that one could make the complaint through the police station for onward transmission.

It, however, does not overcome the second difficulty which we had in drafting this particular provision and that is the certainty in the mind of the person making the complaint that the complaint will actually reach the Authority.

Now, if you go to a police station in Blanchisseuse and you hand a sealed envelope addressed to the Authority and you get nothing in return, there is no certainty that the complaint will later be transmitted to the Authority. From the time you get a certified copy of the complaint, if you are getting no action on the complaint, you can then go directly to the Authority, or to the Minister, without having to go back to the police station to find out what is happening with your complaint.

It was very difficult finding a mechanism that met all the possible difficulties and I think we have come up with something that we think can work and that we can live with.

Sen. Daly: I take the point—

Sen. Spence: Confidential document—When you register a letter at the post office, the clerk does not read the letter but it is registered and you have a means of tracing it back if it goes astray. It could be like a registered letter.

Sen. Daly: It is really going to be very difficult for someone to take an open complaint to the officer in charge of the station. So maybe there should be another form which is in the form of a receipt which you could get, similar to what Sen. Spence is suggesting; but I really have difficulty with an open document.

Sen. Spence: It would discourage people from making a complaint. You are going to have to make sure that people are not discouraged.

Mr. Sobion: Mr. Chairman, you see, there is an alternative. If the person somehow feels intimidated by the police station or by the police officers at the police station, he can go to the Authority. If he does not feel so discommoded, he can go to the police station, in which case he is under no intimidation or any such thing. But the options are there.

It is not that he is precluded from going to the Authority. He can go directly to the Authority, if he wishes. It was only added—as a matter of fact, the original draft of this did not have the position whereby you could have gone to the police station. All complaints were to be made directly to the Authority. But then the

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question of distance and convenience came up and what was added was "or the police station in the district". That was added merely as a convenience. But the original position was that it would go to the Authority. So if a person does not feel that difficulty about going to the police station, he can go to the police station. If not, he goes directly to the Authority.

Sen. Spence: Can I ask whether the copy would be certified on each page? If not, then you might as well certify the envelope. If it is not going to be certified on each page, then there is no proof that the top page certified is attached to the bottom page.

Sen. Daly: A separate receipt, like a registered letter—

Mr. Sobion: Mr. President, perhaps—sorry.

Sen. Mahabir-Wyatt: Does this envisage the possibility of such a certified copy being sent back?

Mr. Sobion: That was the point I was just about to make, that you can, in any event, post it to the Authority. So this was only added as an additional feature to make sure that all avenues were open to every individual. But you can send it to the Authority, you can take it in, you can post it in, you can send it by registered mail or you can send it to the police station. It is not a loss to anyone.

Sen. Spence: I just wanted to get that across.

Sen. W. Mark: I would like to suggest here, Mr. Chairman, that the matter that is being addressed could be better dealt with in the regulations which should be affirmative at this level. We are suggesting that what the Attorney General is talking about could be addressed there.

6.25 p.m.

Sen. Daly: I am withdrawing the amendments.

Mr. Chairman: The two amendments you are proposing to clause 21(1) are both withdrawn?

Sen. Daly: Both amendments under clause 21(1) and (2) and to insert a new subclause (3).

Mr. Chairman: Those are all the amendments to clause 21?

Sen. Daly: No, Sir, I still have a new subclause 21(4), that is the forwarding of the complaint to the police officer.

Mr. Chairman: Sen. Daly is withdrawing his proposed amendments to subclause 21(1) and (2); also his proposed new subclause 21(3).

Amendments withdrawn.

Sen. Daly: Mr. Chairman I beg to move, that clause 21 be amended by inserting a new subclause (4) as follows:

"The Authority shall forward a copy of the complaint to the police officer against whom the complaint is made with a written notice specifying the time not exceeding seven days within which the officer may give in writing an explanation concerning the complaint"

and to re-number subclauses (3) and (4) as (5) and (6), respectively.

Sen. Huggins: Mr. Chairman, whilst we agree with the intent behind this amendment, I think it is something more adequately dealt with in the Regulations. If you look at clause 41(a)—

"the practice and procedure to be adopted in relation to the formal investigation of complaints"

I think this is something that can more appropriately be dealt with in the Regulations in dealing with fixing the time periods within which certain things ought to be done. We agree with the intent.

Sen. Daly: I will accept that, Mr. Chairman.

Mr. Chairman: Withdrawing?

Sen. Daly: Yes, Sir.

Mr. Chairman: Sen. Daly is withdrawing his proposed new subclause 21(4).

Amendment withdrawn.

Clause 21 ordered to stand part of the Bill.

Clause 22 ordered to stand part of the Bill.

Clause 23.

Question proposed, That clause 23 stand part of the Bill

Sen. Huggins: Mr. Chairman, I beg to move that clause 23(3) be amended by deleting the word "Division" in line 2 and replacing it by the word "Authority".

Mr. Chairman: Substitute "Authority" for "Division" at the beginning of line 2 of clause 23(3)?

Sen. Huggins: Yes, Sir. And in the penultimate line of clause 23(3) the word "Authority" should be "Division".

Mr. Chairman: Members of the Committee, the amendment proposed by the Minister of National Security to clause 23(3) is that the word "Division" at the beginning of line 2, be deleted and replaced by the word "Authority"; and the word "Authority" in the penultimate line of the same subclause be deleted and substituted by the word "Division".

Question put and agreed to.

Clause 23, as amended, ordered to stand part of the Bill.

Clauses 24 to 27 ordered to stand part of the Bill.

Clause 28.

Question proposed, That clause 28 stand part of the Bill

Sen. Daly: Mr. Chairman, I beg to move that clause 28 be amended by adding after the words "instrument of delegation" the following:

"and where a complaint is made against an officer of a rank higher than the Head of the Division, that Head of the Division shall after consultation with the Authority appoint an officer of a rank higher than the officer against whom the complaint is made to investigate the complaint in accordance with the provisions of this Act."

Well, I made the point in the debate, Sir, that we have not catered effectively for complaints against officers above the rank of Assistant Superintendent, so I thought we might provide for that here. There is a misprint in my amendment. It should be "Add after the words "instrument of delegation". That is, I want to add it on at the end. If the Minister wants to consider making that a separate clause, I do not object, but I want complaints against senior officers catered for.

Sen. Huggins: Mr. Chairman, I agree, again, with the intent behind Sen. Daly's proposal. However, I should have mentioned that is a provision that should more appropriately be placed after clause 20(3). It is something that addresses the head of the division. What he is saying is that if a complaint relates to a person that is of a higher rank than the head of the division, then provision should be made for investigation of that officer, and I think it is more appropriately placed under clause 20(3), as probably a new subclause and not under clause 28. I think to put it as a separate clause somewhere in the back will just be confusing.

Mr. Chairman: Is it the wish of the Senate that we go back to clause 20(3) to deal with the final amendment proposed by Sen. Daly?

Question put and agreed to.

Clause 28 deferred.

Clause 20(3) recommitted.

Mr. Sobion: Mr. Chairman, I beg to move that clause 20(3) be amended. I have a proposed draft to take care of the concerns raised by Sen. Daly. It could be inserted after subclause (3) of clause 20; and I will just add the words:

"save that where a complaint is made against an officer of a higher rank than that held by the head of the division, the Head of the Division shall after consultation with the Commissioner appoint an officer of a rank senior to that of the officer against whom the complaint is made to investigate the complaint."

Sen. W. Mark: What about the Commissioner?

Sen. Daly: I think it is better that the Commissioner—you cannot have the lower man investigate the higher man. Should the Commissioner not have that responsibility?

Mr. Sobion: Then we can merely say, Mr. Chairman, that:

"the Commissioner shall appoint an officer of a rank senior to that of the officer against whom the complaint is made."

Sen. Daly: I am very happy, Mr. Chairman. Thank you.

6.35 p.m.

Sen. Huggins: Let me just deal with a concern that is going to shoot across the floor just now, Mr. Chairman. There are special provisions under the Police Service Commission Regulations to deal with disciplinary action against the Commissioner. The Commissioner is treated separately from all other police officers.

Mr. Chairman: The proposed amendment to take care of the amendment proposed to clause 28 by Sen. Daly is, to add the following words at the end of clause 20(3), as follows:

"save that where a complaint is made against an officer of a higher rank than that held by the Head of the Division, the Commissioner shall appoint an

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officer of a rank senior to that of the officer against whom the complaint is made to investigate the complaint.

Question, on amendment, put and agreed to.

Clause 20, as amended, ordered to stand part of the Bill.

Mr. Chairman: We go back now to clause 28.

Clause 28 recommitted.

Clause 28 ordered to stand part of the Bill.

Clauses 29 to 33 ordered to stand part of the Bill.

Clause 34.

Question proposed, That clause 34 stand part of the Bill.

Sen. Huggins: Mr. Chairman, I beg to amend clause 34. There is a typographical error in line 3. The word "discuss" should be "dismiss".

Question put and agreed to.

Clause 34, as amended, ordered to stand part of the Bill.

Clause 35.

Question proposed, That clause 35 stand part of the Bill.

Sen. Baksh: Mr. Chairman, I beg to amend clause 35 by inserting a new subclause (3) as follows:

"(3) When after the Authority has submitted its finding and recommendation under sub-clause (1) and the Commissioner is unwilling to implement these recommendations the Authority may direct him to so do."

In subclause (2) delete the words "exercise his discretion in accordance with section 27(1)."

I wish to withdraw both amendments made under clause 35.

Amendments withdrawn.

Clause 35 ordered to stand part of the Bill.

Clauses 36 and 37 ordered to stand part of the Bill.

Clause 38.

Question proposed, That clause 38 stand part of the Bill.

Mr. Sobion: Mr. Chairman, I beg to amend clause 38 as follows:

"In subclause (1), delete the words, "which relates to, and has" and substitute the words, "which relate to, and has."

Question, on amendment, put and agreed to.

Clause 38, as amended, ordered to stand part of the Bill.

Clauses 39 and 40 ordered to stand part of the Bill.

Clause 41.

Question proposed, That clause 41 stand part of the Bill.

Sen. W. Mark: Mr. Chairman, I beg to amend clause 41 by substituting the word "affirmative" in place of the word ""negative".

We would like to suggest, given all that we have said during our discussions on some of the areas that remain dark, that the regulations which are going to govern this Authority be subjected to some degree of scrutiny at the level of the Parliament, and not through the Private Member's motion. We would like to suggest and to propose that all regulations be subject to an affirmative resolution of the Parliament, so that we, here, as the national watchdog of the community, would be able to, at least, monitor and to ensure that whatever regulations are being established to govern the work of this Authority are, in fact, consistent with good principles and practices.

In clause 41(1)(c) there is a broad sweep here, a vague and nebulous kind of statement: such other matters. We do not know what those "other matters" are going to be, and we do not want the Minister of National Security, though he is very eager to pursue and to engage—but sometimes you have to save people from themselves. We would want to suggest that in this instance the Parliament be given the power to really have a positive say on this matter and not as is proposed in the Bill, that it should be subject to a negative resolution of Parliament. We feel that this is a very humble and modest amendment that we are proposing and we should like the hon. Minister of National Security to give his total support to this particular amendment.

Sen. Spence: Mr. Chairman, may I ask, for guidance. If it has to be a negative resolution, what is the machinery then, for moving a motion? Has it got to be a Private Member's motion? Or is the motion automatic at the time when the negative resolution is asked for? What is the procedure?

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Mr. Chairman: If a private Member files a motion, it is a Private Member's motion.

Sen. Spence: So in order to put "by negative resolution," it has to come under Private Member's motion and wait its turn? Or is one allowed to file it at the time when the regulations are being tabled?

Mr. Chairman: Because of the nature of the motion, I would expect that the matter will be dealt with.

Sen. Spence: You see, that is the point. If it is going to be dealt with right away, then I see no need for changing from "negative" to "affirmative". If it has to take its list at the end of normal Private Member's motion, that is a different kettle of fish altogether. So it would seem to me that once the procedure allows it to be taken immediately, then I would say leave it as it is.

6.45 p.m.

Sen. W. Mark: Mr. Chairman, we are talking about regulations which are sometimes more important than even the Act itself. Professor Spence is arguing a very important point. We have 10 Private Members' motions on the Order Paper; we have the regulations before Parliament; we get agreement from the 10 Senators to hold back their motions in order to give precedence to that one. It is once a month we are coming to debate this thing. One wants something to be dealt with urgently. This is why we are saying affirmative. Why is the Government seeking to deny the Parliament the privilege and the authority to go through these regulations with a fine-toothed comb. Why? It is an affirmative resolution we are calling for.

Sen. Spence: I think, perhaps, the Standing Orders are too silent on the point. But, it would seem to be logical that it would be taken right away. Really, one does not want to have debates just for the sake of having debates, so it is better to have it negative, providing that if the thing looks urgent, you can force a debate.

Mr. Chairman: In the case of regulations, there is provision in the Standing Orders for a Regulations Committee which can meet and examine the regulations which are now called Statutory Instruments. A report can be made, under resolution, for the adoption of that report and I am sure that will be given priority.

I can tell you that many years ago, as far back as the mid-eighties, there was consideration of amendments to the Standing Orders of the House which have

never come to pass. It was clearly identified that "Public Business" should be subdivided not into two, but into three groups. One can have "Government Business", "Parliamentary Business" and "Private Members Business". Because, one has reports from committees like the Public Accounts Committee, Regulations Committee and private bills, which will then be given precedence.

Sen. W. Mark: Mr. Chairman, are you saying, for instance, that under the Standing Orders when those regulations are brought here, and the Government tables those regulations, they are going to implement those regulations whilst they are being referred to a Regulations Committee? Or, are you saying that under the regulations, once they are brought to Parliament and we have a difficulty with them, we refer them to a regulations committee and the Government would not be able to implement those regulations until the Regulations Committee decide on it.? I want to get clarification and guidance.

Mr. Chairman: Sen. Wade Mark, you would have to get that clarification from the Attorney General as the legal authority. I cannot change existing laws that would indicate whether or not the regulations would come into force immediately.

Sen. W. Mark: That is why, Sir, we are seeking to avoid all those complications. Let us have an affirmative resolution; bring the regulations to Parliament and we will deal with them with dispatch. Of course we can always agree to have one person speak on our side, no problem.

Sen. Spence: That will be the day!

Mr. Chairman: I think they would want you to sign that agreement.

Mr. Sobion: Mr. Chairman, I know that Sen. Mark feels strongly about this amendment, but, really, we are dealing with procedural rules for the investigation of complaints: in what time the complainant be advised of the hearing; at what time should the person complained about be given notice to attend a hearing. Those are procedural matters, and, it is not as if the matter will not come to Parliament; it is going to be laid in Parliament and if, for any reason, any Senator has a difficulty with any of those procedural regulations, he can then file a Private Member's motion and deal with it.

It is not the kind of complicated regulation where one may want to have some degree of debate over it. For example, the Maxi-taxi Regulations, those are the kinds of regulations where one is putting constraints on the owners and drivers of

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motor vehicles etc. That kind of regulation is more amenable to the affirmative process, but this procedural matter we see no problem with it being dealt with in this way.

Mr. Chairman: On a question of procedure. Sen. Wade Mark's amendment is proposing two new clauses; those have to be taken at the end—

Sen. W. Mark: No, no. I am on clause 41, Sir. Then I have new clauses that we are proposing, which will come subsequent to that.

Question, on amendment, put.

The Committee divided: Ayes 11, Noes 16

AYES

Mark, W.

Capildeo, S.

Baksh, S.

Kwabene, R.

Merritt, C.

Mahabir-Wyatt, Mrs. D.

Ali, H.

Daly, M.

Teelucksingh, D.

St. Cyr, E.

Oudit, N.

NOES

Saith, The Hon. L.

Huggins, Hon. R.

Barnes, Hon. B.

Kuei Tung, Hon. B.

Yuille-Williams, Hon. J.

Draper, Hon. G.

Robinson-Regis, Hon. C.

Mark, A.

Callender, S.

Ojah-Maharaj, D.

Elder, J.

Kuarsingh, Dr. H.

Rahael, J.

Gosine, R.

Hassim, A.

Rooks, J.

Sen. J. Spence abstained.

Amendment negatived.

Clause 41 ordered to stand part of the Bill.

Mr. Chairman: We have come to the end of the clauses in the Bill. There are two new clauses proposed by Sen. Wade Mark, but before we do those, we have to go back to clause 5.

Mr. Sobion: Mr. Chairman, in fact, the first of the new clauses proposed by Sen. Wade Mark deals with the question of an annual report as well. What I was proposing was to have a new clause 41 and renumber the existing clause 41 to 42. Clause 41 will therefore read—and I may say, Mr. Chairman, that I had circulated the proposed amendment, both to Sen. Daly and Sen. Mark, and except for some minor differences, we have agreement on the formulation:

"The Minister shall cause an annual report to be prepared by the Authority in accordance with section 5(c) and shall as soon as possible after he receives such report lay it in both Houses of Parliament. The report should contain details of the complaints received by the Authority and the results of the investigation carried out by the Division save however that the Authority may omit all such particulars as may lead to the identification of the parties to the complaint."

Mr. Chairman, I may say that Sen. Wade Mark had indicated that he would have preferred a time period fixed for the Minister to submit the report, instead of

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the words "and shall as soon as possible after he receives such report". At this stage we have no real reason to support that particular provision.

Sen. Daly would have liked the addition of the words "at its discretion" included between "that the Authority" and "omit all such particulars". Again, we are of the view that it is not really necessary. "May" implies a discretion and it is sufficient to say that the "Authority may omit". It is within the discretion of the Authority to omit or not omit. That is the proposed amendment.

6.55 p.m.

Mr. Chairman: Let me understand it clearly. You are adding a new clause. We have to deal with clause 5.

Clause 5 revisited.

Mr. Chairman: Does that stand as it is?

Sen. Mark: Yes.

Mr. Chairman: What about your proposed amendment to clause 5? Are you withdrawing it?

Sen. Mark: Yes.

Mr. Chairman: We will now dispose of clause 5 before we deal with the new clauses. First of all, Sen. Daly is seeking leave to withdraw his proposed amendment to clause 5.

Amendment withdrawn.

Clause 5 ordered to stand part of the Bill.

Clause 17 recommitted.

New clause 17A.

Sen. W. Mark: Mr. Chairman, I beg to move that a new clause A be added to clause 17 as follows:

Through the Minister, the Authority shall cause to be laid in Parliament, an annual Report on its work.

Mr. Chairman: Sen. Mark, are you withdrawing the proposed new clause 17A?

Sen. W. Mark: It is a conditional withdrawal. In other words, we would like him to read this completely again. Upon that we are going to withdraw, new clause 17A.

Amendment withdrawn.

Clause 17 again ordered to stand part of the Bill.

New clause 41.

- (1) The Minister shall cause an annual report to be prepared by the Authority in accordance with section 5(c) and shall as soon as possible after he receives such report lay it in both Houses of Parliament.
- (2) The Report should contain details of the complaints received by the Authority and the results of the investigations carried out by the Division, save however that the Authority shall omit all such particulars as may lead to the identification of the parties to the complaint." [*Hon. K. Sobion*]

Read the first time.

Question proposed, That the new clause (1) be read a second time.

Sen. Spence: Mr. Chairman, it would seem to me that this might be a deterrent to people coming forward if they know that their names are going to be circulated widely.

Mr. Sobion: Mr. Chairman, I have no difficulty with the view expressed by Sen. Spence. It can be met quite easily by saying: "save however, that the authority shall omit all such particulars as may lead to the identification of the parties".

Question put and agreed to.

Question proposed, That the new clause be added to the Bill.

Question put and agreed to.

New clause 41 added to the Bill.

Mr. Chairman: The existing clause 41 will be renumbered as clause 42.

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New clause 43.

43 (a) The Auditor General shall be responsible for the auditing of the Accounts of the Authority.

(b) The Audited Accounts of the Authority shall be laid in Parliament on an annual basis. [*Sen. W. Mark*]

Read the first time.

Question proposed, That the new clause be read a second time.

Sen. W. Mark: Mr. President, we are proposing that the accounts of the Authority—I think this was an oversight in the drafting. This is what we suspect, although, we know there has been a privatization of that aspect of the Government's operations, where, for instance, companies are now able to tender on the “open market.”

We propose to the hon. Minister of National Security that the Auditor General, as the agency vested with the authority under the Constitution to audit the accounts of Trinidad and Tobago, be the person or body assigned to audit the accounts. Or, as we have said here—in fact, we could even propose an amendment to this section if it is so desired. We would like to suggest that the Auditor General be the person responsible for auditing but if the Auditor General designates someone else to do so, we would have no difficulty.

We are also saying that the accounts of the Authority should be tabled in this Parliament as soon as they reach the hon. Minister. I would imagine that within a period of 30 days, possibly, of their receipt, those accounts and reports can be tabled in Parliament.

There is no provision in the Bill for the accounts of the Authority to be tabled in Parliament and for the Auditor General to audit the accounts of the Authority. We are strongly advocating that the Auditor General be assigned that responsibility, as proposed by us, and that the accounts be tabled annually in the Parliament of Trinidad and Tobago. I cannot see the hon. Minister of National Security withdrawing or disagreeing with that.

Sen. Huggins: Mr. Chairman, we are not going to engage in any exercise of superfluity. Section 116(2) of the Constitution quite clearly states:

"The public accounts of Trinidad and Tobago and of all officers, courts and authorities of Trinidad and Tobago shall be audited and reported on annually by the Auditor General..."

It is provided for in the Constitution. Once it is a state authority, a public authority, the Auditor General has full authority to come in and audit, and there is provision for the annual laying in Parliament of all such audited reports.

7.05 p.m.

We are not going into any redundancy here.

Sen. W. Mark: Mr. Chairman, what we are arguing is that we have been here for some time and in all bills which come before this Parliament, there is a provision for the Auditor General—

Sen. Huggins: Name one.

Sen. W. Mark: We are talking about NAMDEVCO.

Sen. Huggins: That is a private company, not a state authority.

Sen. W. Mark: I am saying, that from our experience, it has always been like that. At least, the Attorney General can tell you that. It is according to law.

Sen. Huggins: The Constitution says so.

Sen. W. Mark: You are saying it is not necessarily that way.

Sen. Huggins: That is what I said. That is what I meant by superfluity.

Sen. W. Mark: I know that is what you meant.

Sen. Huggins: I am not certain that you do.

Sen. W. Mark: We are insisting that if that is the position, as proposed by the Minister of National Security, for purposes of speeding up this exercise—

Question put and negatived.

Sen. W. Mark: Mr. Chairman, if it is so they want to have it, let them have it. The "Noes" have it. Everything the "Noes" have it. Their "nose" are up in the sky. Let them continue.

We will not pursue this matter. We will not support the Bill. We serve notice.

Mr. Chairman: Do you want a division?

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Sen. W. Mark: We do not want any division. If that is how they are governing—anything this Opposition says, they are in opposition to it—we shall not support this Bill.

The Schedule ordered to stand part of the Bill.

Question put and agreed to, That the bill, as amended, be reported to the Senate.

Senate resumed.

Bill reported, with amendment.

Question put, That the bill be now read the third time.

The Senate divided: Ayes 19, Noes 5

AYES

Saith, Dr. The Hon. L.

Huggins, Hon. R.

Barnes, Hon. B.

Kuei Tung, Hon. B.

Yuille-Williams, Hon. J.

Draper, Hon. G.

Robinson-Regis, Hon. C.

Mark, A.

Callender, S.

Ojah-Maharaj, D.

Elder, J.

Kuarsingh, H.

Rahael, J.

Gosine, R.

Hassim, A.

Spence, Prof. J.

Rooks, J.

Mahabir-Wyatt, Mrs. D.

Ali, H.

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NOES

Mark, W.

Capildeo, S.

Baksh, Miss S.

Kwabene, R.

Merritt, Miss C.

Question agreed to.

Bill accordingly read the third time and passed.

ADJOURNMENT

The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith): Mr. President, I beg to move that the Senate do now adjourn to Tuesday, February 16, 1993 at 1.30 p.m.

May I also take this opportunity to advise that the resolution for the extension of the Rent Restriction Act will be dealt with at the next sitting of the Senate.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.10 p.m.

WRITTEN ANSWER TO QUESTION

School Feeding Programme

The following is the list of caterers furnished by the Minister of Education (Hon. Augustus Ramrekersingh) in reply to question No. 38 earlier in the proceedings:

MINIMUM AND MAXIMUM LEVEL OF CATERERS

NOVEMBER 1992—JULY 1993

	Caterers	Minimum	Maximum
	St. George East		
(1)	Annabella Rousseau-Nurse	600	1000
(2)	Pearl Douglas-Spring	800	1500
(3)	Bernice Marcelle	1000	1600

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	Caterers	Minimum	Maximum
	St. George East (<i>cont'd</i>)		
(4)	Wallace Charles	1000	1500
(5)	Jodelle's Baking Service Ltd.	800	1500
(6)	Pulbasia Harricharan	400	800
(7)	Romaine Arthur	1000	1800
(8)	Marlene Murray	600	1200
	St. Andrew/St. David		
(9)	Joslyn Mark	1000	1800
(10)	Joanne Williams	300	600
(11)	St. Francis Lunch Centre (Paulina De Freitas)	1000	2000
(12)	St. Andrew Regional Life Centre	300	600
(13)	Edna Stewart	400	800
(14)	Serena Hayde	400	800
(15)	Sharon Hagley	300	700
	St. George West		
(16)	Eastside Food Centre (Uranie Henry)	800	1800
(17)	Cascade Caterers	800	1600
(18)	Servol Ltd. Beetham	800	1600
(19)	Barataria Coterie of Social Workers Inc.	500	800
(20)	San Juan S. D. A. Church Welfare Lunch Centre	500	1000
(21)	North Coast Resorts Ltd. (Andrew Hernandez)	300	600
(22)	Grace Augustine	300	800
(23)	Zainab Maharaj	700	1200

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	Caterers	Minimum	Maximum
	St. George West		
(24)	Marilyn Francis	1000	2000
(25)	Mi Clair & Co.	300	500
(26)	Joans's Catering (Joan Sealy) Service	700	1500
	Nariva/Mayaro		
(27)	Fareed Hosein	700	1300
(28)	Waheed Yacoobali	600	1000
	Caroni		
(29)	Les Hosein	600	1300
(30)	Rita's Catering	600	1200
(31)	Sheik Shahadur	750	1200
(32)	Umati Ramoutar	800	1600
(33)	Fiklia T. Robain	300	700
(34)	Ramphals Catering	800	1800
(35)	Mariatt Caterers Ltd.	700	1200
(36)	K's Katering	400	700
	Victoria		
(37)	Angela Burton	800	1500
(38)	Deodath Harryginsingh	500	1000
(39)	Servol Ltd (Forres Park Life Centre)	600	1100
(40)	Gina's Catering Service Ltd.	700	1200
(41)	Sean David—Seaview Caterers	500	1000
(42)	Barrackpore Children's Lunch	800	1500
(43)	Phulmatie Ramdhanee	500	900
(44)	F&M Catering Ltd.	700	1300

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	Caterers	Minimum	Maximum
	Victoria		
(45)	Michael Lee Chee	700	1100
(46)	Hosein Yacoobali	600	1000
(47)	Moruga Life Centre	500	850
(48)	Roland St.George	700	1100
(49)	Coterie of Social Workers Inc. (San Fernando)	700	1200
(50)	Sumintra Pantin	300	600
(51)	Doolchan Sirjoo	300	600
(52)	Penal Lunch Centre Assoc. St. Sutherland)	500	900
(53)	Coterie of Social Workers Inc.—Siparia	600	1000
(54)	Recon Ltd.	600	1000
(55)	Hibiscus Catering Services (Mary Anthony)	800	1400
(56)	H&S Catering Services	300	500
(57)	Jennifer Daniel	400	700
(58)	Annie Jimdar	400	700
(59)	Lorna John	400	900
(60)	Mignonette Social Charitable Organization (Ival Roberts)	600	1100
(61)	Carmen Trim	300	500
(62)	Zilicia Celestine	300	500
(63)	Shubina Badai	300	600