

*Leave of Absence**Tuesday May 09, 1995***SENATE***Tuesday, May 09, 1995*

The Senate met at 1.30 p.m.

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

Mr. Vice-President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Dr. Lenny Saith, Sen. The Hon. Joan Yuille-Williams and Sen. Carol Mahadeo to be absent from today's sitting.

Sen. Kamla Persad-Bissessar has advised that she would be late.

Finally I wish to advise that I have granted leave to Sen. The Hon. Gordon Draper to be absent from sittings of the Senate for the period May 11—24 as he would be out of the country on Government's business.

VACANT SEAT

In exercise of the power vested in him by paragraph (e) of subsection (2) of section 43 of the Constitution of the Republic of Trinidad and Tobago, His Excellency the Acting President, acting in accordance with the advice of the Prime Minister, has declared the seat of Sen. Jean Elder to be vacant with effect from May 08, 1995.

SENATORS' APPOINTMENT

Hon. Senators, I have been advised that in exercise of the power vested in him by section 44 of the Constitution, His Excellency the Acting President has appointed Mrs. Norma Lewis-Phillip as a temporary Senator with effect from May 03, 1995 and continuing during the absence from Trinidad and Tobago of Sen. Ashick Mohammed Hassim.

In exercise of the power vested in him by paragraph (a) of subsection (2) of section 40 of the Constitution of the Republic of Trinidad and Tobago, His Excellency the Acting President, acting in accordance with the advice of the Prime Minister, has appointed Mr. Knowlson Gift a Senator with effect from May 08, 1995.

In exercise of the power vested in him by section 44 of the Constitution, His Excellency the Acting President has appointed Miss Jean Elder to be temporarily a

Senators' Appointment
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Senator with effect from May 08, 1995 and continuing during the absence from Trinidad and Tobago of Sen. Joan Yuille-Williams.

OATH OF ALLEGIANCE

The following Senators took and subscribed the Oath of Allegiance as required by law:

Knowlson Gift, Jean Elder and Norma Lewis-Phillip.

PAPER LAID

Report of the Auditor General on the accounts and financial statements of the Primary Education Programme for the year ended December 31, 1993 as required by Loan Contracts 796/SF-TT and 215/IC-TT between the Government of the Republic of Trinidad and Tobago and the Inter American Development Bank. [*The Minister of National Security (Sen. The Hon. R. Huggins)*]

COUNTING UNREMUNERATED WORK BILL

Special Select Committee Report

Presentation

The Minister of Consumer Affairs (Sen. The Hon. Camille Robinson-Regis): Mr. Vice-President, I wish to present the report of the Special Select Committee of the Senate appointed to consider and report on a Private Member's Bill entitled, "An Act to require the Central Statistical Office and other public bodies to include in the production of statistics that relate to the gross domestic product and other accounts, a calculation of unremunerated work performed in Trinidad and Tobago, and to include this calculation in the gross national product."

1.40 p.m.

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. Vice-President, if I may jump the gun, questions Nos. 14, 16, 26 and 32 are not yet ready for answer and I respectfully ask that they be deferred for a period of two weeks.

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper:

Public and Private Sectors (Severance/Retrenchment Scheme)

- 14.** (a) Could the Minister of Labour and Co-operatives provide the Senate with the list of companies in both the public and private sectors

which have severed/retrrenched their employees utilizing the various schemes such as Voluntary Early Separation Plans, Voluntary Early Retirement Plans, or Voluntary Early Termination Plans in the period 1991, 1992, 1993 and 1994?

- (b) Could the Minister further state the number of employees involved in these schemes, the quantum of money involved in each scheme and the quantum of money, if any, still owed to workers during the period 1991, 1992, 1993 and 1994? [*Sen. W. Mark*]

**Retrenched Employees
(Outstanding Money Owed)**

16. Could the Minister of Labour and Co-operatives state:
- (i) The outstanding sums of money still owed by employers to employees who were retrrenched during the period 1981 to 1991?
- (ii) The names of the companies and the number of workers involved?
- (iii) What steps are being utilised by his Ministry to have these sums settled? [*Sen. W. Mark*]

**Consultancy Firms
(Divestment/Privatization)**

26. (a) Could the Minister of Finance provide the Senate with the names of the consultancy firms involved in the divestment/privatisation (either wholly owned or partially owned) during the period January 1992 to November 1994?
- (b) Could the Minister further provide the Senate with copies of the independent valuation reports involved in the transactions in respect of those enterprises which were divested/privatised during the same period? [*Sen. W. Mark*]

**UN Social Summit
(Copenhagen)**

32. Could the Minister in the Office of the Prime Minister responsible for Public Administration and Information please state:
- (a) the reason the Minister of Social Development left for the UN Social Summit at Copenhagen three days after the Conference had started?

- (b) the reason for the non-attendance of the Prime Minister to this Summit?
- (c) the total cost of the Government's delegation to Copenhagen? [*Sen. C. Merritt*]

Questions, by leave, deferred.

**Caura Chest Hospital
(Plans for)**

31. Sen. Carol Merritt asked the Minister of Health:

- (a) Could the Minister of Health outline the Government's plans for the Caura Chest Hospital?
- (b)
 - (i) the precise number of premature babies who died between January 12 and February 1, 1995, in the neo-natal unit at the Mt. Hope Maternity Hospital, Mt. Hope?
 - (ii) whether the number of deaths referred to at (i) were due to the absence and/or unavailability of a doctor to monitor the respiratory machine?
 - (iii) whether an investigation has been initiated into the death of Nickolai Francis Day, who died on January 24, 1995, at the neo-natal unit at Mt. Hope?

The Minister of Health (Hon. John Eckstein): Mr. Vice-President, the Government plans to transfer the services now offered at the Caura Chest Hospital to the Eric Williams Medical Sciences Complex. A committee of Ministers has been appointed under the chairmanship of the Minister in the office of the Prime Minister with responsibility for Public Administration and Information.

The committee includes the Minister of Health, the Minister of Social Development and the Minister of Sport and Youth Affairs. This committee is charged with the responsibility of devising proposals for the future use of the facility at Caura.

During the period January 12 to February 1, 1995, seven premature babies died in the neo-natal unit at the Mt. Hope Maternity Hospital. It should be noted that of the five premature babies born during that period, three died.

The deaths referred to at (i) above were largely as a consequence of prematurity. Prematurity is a live birth of 2,500 grms or less, or birth on or before

37 weeks of gestation. Prematurity is listed in the literature as one of the major causes of early neo-natal death, that is, those which occur within the first week of life. Premature babies are readily susceptible to hypothermia, respiratory distress syndrome and congenital birth defects. All these conditions are life threatening to a premature infant.

Because the premature baby has not grown fully in the uterus, its chances of survival are slim, since the baby has not developed all the required physiological mechanisms to sustain life after birth. The shorter the gestational period, the more underdeveloped the life supporting mechanisms.

The Ministry of Health has appointed an officer to investigate the circumstances surrounding the death of Nickolai Francis Day.

Sen. Merritt: Mr. Vice-President, I have a supplemental question please.

With respect to part (a), why does the Minister find it necessary to move the Caura Chest Hospital from its present location, after its successful records at its present location? Why is it necessary to move the hospital from El Dorado to Mt. Hope at this time.

With respect to part (b), the Minister failed to answer if there was an absence or unavailability of a doctor to monitor the respiratory machine when the child died.

Hon. J. Eckstein: Mr. Vice-President, with respect to the decision to relocate the services from the Caura facility to the Mt. Hope Medical Complex, a recommendation was made by all the senior medical officers who advise the Minister of Health, including the Chief Medical Officer, the Principal Medical Officer, Epidemiology and all the senior medical officers in the Ministry of Health. That recommendation was then put to the Cabinet and was accepted.

When plans were made for the construction of the Complex, it was proposed at that time that all cardiology, cardio-vascular surgery and related services should be performed at this facility and that similar activities at Caura Hospital be discontinued. The fact is, Trinidad and Tobago does not have the population to support two cardio-tarasic centres. It is not viable to continue to operate tarasic services out of two different hospitals such a short distance apart. As I said, we do not really have the population to support two centres and it is really not sensible to have two facilities offering the same service such a short distance apart. Any attempt to continue offering this type of service at Caura when the purchase of these equipment is already available at the Mt. Hope Medical Complex will involve considerable capital investment and would run into millions of dollars.

In respect of the second question, whether or not the absence of a doctor to monitor the respiratory equipment contributed to the cause of the infant's death. I have indicated that the Ministry of Health had appointed an officer to investigate the circumstances surrounding the death. It would be premature in the absence of that report to make any statement in terms of the cause of the infant's death.

Sen. Merritt: Mr. Vice-President, the hon. Minister said that recommendations were made with respect to the Caura Hospital by several chief medical officers, but did the recommendations include any from the Chief Medical Officer who operates at Caura Hospital? Did that officer have an input into the advice that was received?

The other aspect where the hon. Minister said that an officer was investigating the occurrences at the Mt. Hope Medical Complex, is there a timeframe for that officer to report on the happenings?

Hon. J. Eckstein: The Principal Medical Officers in the Ministry including the Chief Medical Officer who advise the Minister of Health, would have heard, would have consulted with, would have received the views of the staff, including the Medical Chief of Staff at the Caura Hospital and would have made their recommendations having regard to the positions expressed by the Chief of Staff at the Mt. Hope Medical Hospital.

In respect of the question of the timeframe, such reports do not come to the Minister, they are sent to the Public Service Commission, the body that is competent in the law to deal with matters of disciplining public servants, where there is alleged to be an act of indiscipline. The Minister, in fact, only takes the responsibility and has to resign if and when something happens, but the Minister is not privileged to see such reports.

1.50 p.m.

Sen. Mahabir-Wyatt: Mr. Vice-President, a supplementary question in relation to part (a) of the question. Could the Minister tell us what the Ministry plans to do with the Caura Chest Hospital, once the functions have moved over to Mt. Hope Medical Complex and what is going to happen with the buildings?

A second supplementary question in relation to part (b) of the question. Could the Minister tell us how long it took the Public Service Commission to submit a report on the events that happened at St. Ann's Hospital? And what action the Public Service Commission has taken in relation to the staff that was responsible,

according to that report? So that we can make some sort of judgment as to what is going to happen in this case.

Hon. J. Eckstein: Mr. Vice-President, with respect to the buildings, as I indicated in my answer, the Cabinet has set up a committee under the chairmanship of Sen. the Hon. Gordon Draper, and I am a member of that committee. Several proposals have come in to the committee, but the committee has not as yet determined the use to which the facility will be put. That committee's report will have to be sent to the Cabinet for its consideration. At that time we would be in a better position to respond.

With respect to the St. Ann's matter, Members would recall that the matter was referred to the Public Service Commission and the commission indicated that they could not take any action in the matter and we appointed a Commission of Enquiry under Sir Isaac Hyatali. That committee sat for one year in public and heard evidence. The report of that commission was then sent to the Public Service Commission who said that those recommendations could not be taken into consideration by the commission because they were not in accordance with the Public Service Commission's Regulations which require the appointment of an investigating officer. At that point in time the commission then appointed an investigating officer and referred the Hyatali Commission's Report to the investigating officer. We have heard nothing about it. We are still sitting and waiting the pleasure of the Public Service Commission in this matter.

ARRANGEMENT OF BUSINESS

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. Vice-President, I now seek the leave of the Senate to deal with Item 6 under 'Private Business, Motions', at this time instead of Government Business.

Agreed to.

COUNTING UNREMUNERATED WORK BILL

Special Select Committee Report

Adoption

The Minister of Consumer Affairs and Minister in the Office of the Prime Minister (Sen. The Hon. Camille Robinson-Regis): Mr. Vice-President, I beg to move,

That this Senate adopt the Report of the Special Select Committee of the Senate appointed to consider and report on a Private Members' Bill entitled, "An

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[SEN. THE HON. C. ROBINSON-REGIS]

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Act to require the Central Statistical Office and other public bodies to include in the production of statistics that relate to the Gross Domestic Product and other accounts, a calculation of unremunerated work performed in Trinidad and Tobago, and to include this calculation in the Gross National Product."

This committee was appointed on Tuesday, April 25, 1995. The committee had one meeting on Wednesday April 26, 1995. At that meeting the Bill was considered clause by clause in detail and it was agreed that amendments were necessary if the Bill was to be effective and in order to ensure that the purpose of the Bill could be achieved.

Mr. Vice-President, the main objectives of the amendments proposed by this, your Committee, are that the types of work now performed that are unremunerated would be surveyed via the Central Statistical Office. This would include work performed in and around dwelling places, work related to the care of children, the handicapped, the elderly and other care services; agricultural work and work related to food production, family businesses, volunteer and community work in both the formal and informal sectors of the society.

Your Committee felt certain that we needed to specify the type of unremunerated work that needed to be surveyed. Additionally, we also felt it necessary that upon the survey being conducted the information garnered will be utilized for the quantifications of compiling a supplemental record to the gross national product.

Mr. Vice-President, your committee feels that the proposed amendments as listed in the report would effectively achieve the objective that the Bill sets out to achieve. As a consequence of this, I beg to move that the Senate now adopt this report of the Special Select Committee of the Senate so appointed to consider this Private Bill.

Thank you, Mr. Vice-President.

Seconded by Sen. Diana Mahabir-Wyatt.

Question proposed.

2.00 p.m.

Sen. Prof. John Spence: Mr. Vice-President, can the report be debated at this point?

Mr. Vice-President: Yes.

Sen. Prof. Spence: May I then speak on it?

Mr. Vice-President: Certainly.

Sen. Prof. Spence: Mr. Vice-President, I had made certain points in the debate on the Bill which I do not think had been captured in the discussions of the select committee. Therefore, I would not be willing to support the report of the select committee.

My point was that I did not believe that a survey which collected information only on unremunerated work is really what is needed at this time. My proposal was to conduct household surveys which will include unremunerated work and we would get at the intent of the Bill in that way. I felt that if we were to do this we would be doing a much greater service to the community and, indeed, to the women of the community who bear the brunt of the problem when households do not have sufficient income to meet their expenditure requirements. I hoped that the committee would have looked at that proposal which would still carry forward the intent of the Bill but, in my opinion, would be of much more benefit to the society as a whole and would collect household data which, in some countries, are collected annually in order to inform the policy, particularly with respect to social matters but also economic matters.

My position would be not to accept the report and, if the Bill goes into committee, to propose amendments which would put forward the intent that I had originally proposed and to which I still now adhere.

Thank you, Mr. Vice-President.

Sen. Martin Daly: Mr. Vice-President, I have great sympathy with the objective of this Bill but my concern is that what appears to be a substantial amendment has been made in committee. Speaking for myself, there are phrases here that I simply do not understand and I hope that before we are asked to vote on this Bill we would be given some explanation of what "supplemental record to the Gross National Product" means; how that will impact on the official statistics to which we are accustomed; whether it will have any impact on the country's ability to borrow money.

Likewise, although I have been taken by surprise that we have moved to item No. 6 on the Order Paper, I have been trying to find out because I do not know, what is the informal sector of the society. I do not know whether there are other Senators who share my predicament, who are not *au fait* with all of these technical terms relating to social services and social sciences.

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I am making a brief intervention in this debate in the hope that before we are asked to vote on a measure as important as this, someone will explain the purpose of this amendment and answer some of the questions which I have raised.

Thank you, Mr. Vice-President.

Sen. Diana Mahabir-Wyatt: Mr. Vice-President, just to put Sen. Daly's mind at rest, the term "supplemental record to the Gross National Product" means that statistics which are presently used for the Gross National Product will not be interfered with. In other words, the purposes for which current statistical tables are used—which includes our ability to borrow money—will not be interfered with because calculations to the Gross National Product will be carried on as they are at present. What will happen with this amendment is that a parallel calculation will be made to indicate the value of unremunerated work of people generally, and it will be made side by side with that of the GNP so that one can see what is the contribution of people who work without being paid for it, to the value of goods and services that are produced in the society as a whole. This is what the system of national accounts recommended by the United Nations does.

Senators can rest assured that it will not interfere in any way with the statistics which we already have and the purposes for which we use them. It will simply be an additional record or additional information which will be available to the community for things such as deciding on public policies, social safety nets where additional help is needed for various people in the society and so forth.

In fact, it could very well assist the country's ability to borrow money from international agencies because for many programmes which are done by non-governmental organizations there are organizations abroad which are willing to make matching grants. In this case, what can happen is an NGO, the work of which is largely carried out by volunteers—people who do not get paid for it—can ask for matching grants from organizations abroad because the actual value which they put into that organization will be officially calculated and matching grants could be made on that basis.

The terms "formal sector" and "informal sector" are used by economists, international labour organizations and the International Association of Statisticians. We are talking about formal in terms of organizationally approved and registered by the Registrar of Companies or a government ministry; organizations which, either governmental or non-governmental, are formal and formally registered in the society.

The informal sector of the society includes non registered companies such as snowcone and newspaper vendors. It will include informal work done in the community, not through a registered chartered organization but informal work which is done within the community to take care of children, the handicapped, the elderly; other bodies within the community that need assistance but the work is being done on an informal basis.

I trust that this will go some way towards answering Sen. Daly's question and those of other Senators who have some worries about this.

In relation to Sen. Prof. Spence's argument, the points that he made in the debate on the Bill were taken very seriously and were discussed in the committee itself. When it came to including these in this particular piece of legislation, however, the advice which was given to the committee was that this was not the correct piece of legislation in which to put the recommendations about the broader and deeper use of domestic surveys because there is already machinery set up to do the domestic surveys but they have to be broadened and deepened and done more frequently. This was the advice which was given to the committee by experts so we felt constrained to accept it.

Thank you, Mr. Vice-President.

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. Vice-President, certain issues have arisen on this debate which were not really anticipated. As a result, I move that further debate on this report be deferred for one week so that further consideration could be given to this matter.

Adoption of report, by leave, deferred.

2.10 p.m.

FIREARMS (AMDT.) BILL

[SECOND DAY]

Order read for resuming adjourned debate on question [May 2, 1995]:

That the Bill be now read a second time.

Question again proposed.

Sen. Hydar Ali: Mr. Vice-President, when I looked at this Bill there were several questions that came to mind relating to two matters, one is the reason for the establishment of the Firearms Appeal Board and, secondly, the reason for the Director of Trinidad and Tobago Forensic Science Centre to be included among the persons authorized to be in possession of prohibited weapons. We have got

answers to these queries but I do not think they have been, in the first case, completely convincing.

We have heard from the Minister of National Security that among the applicants for firearms users' licences that over 70 per cent were successful in obtaining these licences and a mere 30 per cent did not succeed. I wondered if that was not a good enough rate to allow the present system to continue. I would think that having a success rate of over 70 per cent is to be admired. Why does that system have to be changed?

The Minister also said that there has been a lobby. One would assume that lobby came from among this 30 per cent. I do not understand. I could think of several reasons why a person could not be granted a firearm user's licence. One of the things you have to do to get a licence is to fill out a form, and you know what that entails. Last week the educational institutions closed down partly because people were not able to fill out forms correctly. This is what I heard in a debate on the television.

I do not see why we should change the present system where the Commissioner of Police has the authority to issue firearms users' licences. Do we want to get 80 per cent, 90, 100 per cent, or am I reading the Bill wrongly? Is it because we want to reduce the number? But I am not hearing that. The feeling is not that we want to reduce the number of people who are being granted these licences but we seem to want to increase them, because the Minister of National Security would not have said that there is a lobby to have this Firearms Appeal Board established. The impression being given is that some people are not being granted these users' licences and they would want to know why and they would want this decision changed.

Again, in explaining the process in obtaining or applying for a firearm user's licence it was mentioned that a person applies to the district in which he lives, then there is a recommendation from the officer in charge of that district, and mainly because of that recommendation the Commissioner of Police decides whether he should issue a licence or not.

It is not as it appears on paper that the Commissioner of Police has the sole authority. He does have that executive type of authority, but it is a process. The person in the district makes a recommendation based on his findings and then he makes a recommendation to the Commissioner of Police who then decides. I would think that is such a simple matter, that we should take the word of the Commissioner of Police. But we cannot look at this in isolation.

The Commissioner of Police has been asked to respond to certain letters; his resignation was asked for; he has been offered alternative posts, and so forth. If I were the Commissioner of Police I would wonder if this is another of those measures to take away whatever little authority I have.

If no reasons had been given, in the normal course of things I would not object to the setting up of an appeal board. It is always nice to have an appeal board, but I do not think the arguments that were presented made a case for the establishment of a Firearms Appeal Board. Perhaps the Minister in his winding up can tell us whether we want to increase the number of licences from the present 70 per cent to 80 or 90 per cent. Or is the reason the one suggested by the Police Association in the newspapers?

The other comment I would like to make is that this Firearms Appeal Board is going to be headed by the Chairman of the Complaints Authority. We are pleased to hear that this Authority has become law and has been established. I would like to get some further statistics. How many complaints have been received by this board? No complaints? So are we making work for this chairman? This Complaints Authority looks like it is just a mechanism that is there to help other agencies. When we discussed the establishment of the Strategic Services Agency, again it turned out that the Complaints Authority had some role there, but its primary role is to receive complaints. Why is it that no complaints have been received? Why do we not scrap it then if it is of no use? We are just using these people *ex officio* to serve on other committees. So now you have the chairman of the Complaints Authority serving on this board because he apparently has nothing to do, and perhaps next week we will get another Bill where we will put in some other people.

The other point I would like to make concerns section 221 on page 7. There is a marginal note there referring to staff. It reads:

"The Board with the approval of the Prime Minister may by regulations or otherwise confer powers and impose duties on any public officer or any authority of the Government of Trinidad and Tobago to exercise the functions of the Board. "

I wonder what is the relevance of the marginal note there. How is this appeal board going to operate? No mention is made about its own staff or its ability to hire and so forth. Where is it going to get the people? Does this clause tell us that it is going to get people to do its business?

The third and final point I would like to make is that, I support the amendment, in relation to training that has just been tabled by Sen. Rooks.

The amendment states:

"An applicant for a Firearm User's Licence should pass a course of safe handling of firearm by an approved training school before being granted a Firearm User's Licence."

I support that amendment in principle because I do not know whether such a certificate should accompany the application or whether there should be a two-tier stage where one applies for a licence and if it is approved, one should then produce a certificate of competence before being granted a firearm user's licence. I would not like to waste a lot of money and time in acquiring a certificate knowing I would never get the use of a firearm. So maybe the application should be in two stages.

I read an interview in the newspapers recently where somebody said that it is a long time he has not used his 9 mm. I do not know how that statement came about, but based on that, something has occurred to me that rather than granting a licence for life, maybe on a regular basis—and not necessarily annually, every three years perhaps—someone should come up for renewal of that licence and produce some proof that he is still fit. Maybe during that time the person would have had a chance to use it on a range and not use it on anything else, as had been implied on that interview.

Also last week we heard from Sen. Muntaz Hosein about the older people who still have their licence. I would think that there should be some upper limit. I hope I am not offending senior citizens; you have to be so careful nowadays with the language you use. These guns are heavy, you know. Maybe if we have regular tests we would be able to determine if they can effectively use a firearm at a certain age, so that this 84-year old, referred to, would not have this problem. It is no point someone at that age having a firearm in his possession and not being able to use it. Nowadays that is going to be lost very quickly to his own relatives.

2.20 p.m.

Among the regulations and criteria for determining whether someone can obtain a licence, one should be able to show some proficiency in the use and cleaning of the firearm. Also, there should be a renewal period after which one should be called upon to show that one is still fit.

The third point—which may be covered by the second point—is that after attaining a certain age—or perhaps after a test—it should be determined whether the licence should be revoked based on the person's inability to effectively handle a firearm.

Mr. Vice-President, thank you very much.

Sen. Surendranath Capildeo: Mr. Vice-President, permit me to congratulate you on occupying that esteemed seat. I am going to miss the resonant deep "aye" coming from the other side. At the same time, permit me to commiserate with Sen. Elder.

Mr. Vice-President, I have often accused this Government of being the originators of legislative trivia. They persist in bringing legislation to this honourable Senate in bits and pieces and by their whims and fancies whenever it suits them. This time, it is not legislative trivia, but legislation by vaps. There is no other explanation.

Three years ago when Bill No. 2 of 1992 was introduced in this honourable Senate, this Government had a chance to do a comprehensive review of the Firearms Act. They fired a blank shot then, and missed the opportunity. Again, today, they have yet another chance and the same thing has occurred three years later. Absolutely no attempt has been made to look at the Firearms Act—which is one quarter century old—to bring it up-to-date for present purposes and for future conditions.

This Bill has a four-fold mission as defined in the Explanatory Note:

"Firstly, it would increase the penalties for specified offences.

Secondly, it would establish a Firearms Appeal Board to hear and determine appeals from the decisions of the Commissioner of Police under sections 17 and 21 of the Firearms Act.

Thirdly, it would establish a new procedure for the lodging of firearms and ammunition in the possession of a pleasure craft visitor.

Fourthly, it would include the Director, Trinidad and Tobago Forensic Science Centre and such scientific officers as are designated by him among the persons authorized to be in possession of prohibited weapons."

Permit me to take them one by one. Let us take the increase in specified offences. There has been absolutely no rationale for the increase. We have had no explanation as to how the figures were arrived at. For example, section 6 of the Act:

"(3) Any person who contravenes any...of the provisions of this section is liable in the case of—"

This is a section which refers to the possession of a Firearms User's Licence.

"(a) an offence under section (1)—

(i) on summary conviction to a fine of four thousand dollars and to imprisonment for two years;"

That has been amended to \$10,000 and imprisonment for five years.

"(ii) on conviction on indictment to imprisonment for five years."

That has been amended to 10 years.

"(b) an offence under subsection (2)—

(i) on summary conviction to a fine of ten thousand dollars..."

That has been increased to \$20,000 and to imprisonment from two years to five years.

"(ii) on conviction and indictment to imprisonment..."

from 10 years to 15 years.

In subsection (4) the increase has been from \$5,000 to \$10,000; from two years to four years; from \$15,000 to \$25,000; from three years to seven years and so it goes on and on. Up to now this honourable Senate has not had the benefit or the explanation or any rationale of how these figures were arrived at; what was the research done; how did they compile the statistics; how did they arrive at these fines or whether these fines were by way of fax. Did they fax somebody?

There is a problem there. One is dealing with a very serious situation. One is dealing with a situation of citizens wanting to protect themselves by obtaining a Firearm User's Licence in a country in which, to all intents and purposes, law and order have broken down and the citizens are looking for lawful means to defend their homes, and the penalties are increased but we hear nothing about the criminal who can obtain the firearm on the block as easy as one can buy hops bread. *[Interruption]* Yes, I agree. Some people cannot even afford to buy hops bread now. Starvation is rampant in the land.

The Bill then goes on to speak of the establishment of a firearms appeal board. Immediately we run into serious trouble. I want to quote from the *Trinidad*

Guardian of Monday, May 8, 1995 on page 3, headlined "Cops against Firearms Appeal Tribunal":

"Police officers are against a proposal by the Government to set up a Firearms Appeal Tribunal to hear and determine appeals from citizens who are denied a firearm user's licence by the Police Commissioner.

In presenting the Firearms Amendment Bill for debate in the Senate last week, National Security Minister, Russell Huggins said that: 'While the Government feels assured that the Commissioner in exercising his judgement would act with a necessary degree of astuteness, it is in the best interest that an appeal tribunal be established.

But the president of the Police Second Division Social Welfare Association, Wade Hayde, says the Government is attempting to 'usurp the proper functions of the Commissioner by setting up this tribunal.'

Hayde said that 'no useful purpose will be served by setting up a tribunal because if a citizen is dissatisfied with the Commissioner's decision he can seek judicial review.'

Hayde said that the intention of the Government is to ensure that 'their friends are able to get firearms when they need them.'"

2.30 p.m.

We cannot sit here and dismiss a statement made by the President of the Police Second Division Social and Welfare Association to the intent that the Government is setting up this appeals tribunal so that their friends can get firearms whenever the Commissioner of Police refuses them. That is a very serious allegation. It is serious because this Bill would give the board itself a parallel authority to issue a licence.

If this Bill is passed, the end result is that the Commissioner of Police would have the power to issue a licence just as the Appeal Tribunal Board. We would come into serious trouble there because the man who would be making the allegation would not be a politician, a layman or an ordinary man-in-the-street, he would be a police officer occupying a very important position in the police service. What are we to make of such a charge?

Why was the board not given the power to direct the Commissioner of Police to issue the firearms user's licence? Why was the board given the parallel power? Why could that power not reside with the Commissioner as it is now? Why create

that parallel power? It becomes an issue because of the statement made by this police officer. A citizen will have the right of appeal to the board if the Commissioner of Police refuses the application. What right does the Commissioner of Police have if he is of the view that his refusal was correct? Is he going to sit back and say that he knew?

I wrote this down because it is serious. We live in very troubled times. Suppose the Commissioner of Police is in possession of knowledge which because of its nature cannot be revealed openly to the board—for example, if it concerns the security of the nation or the life of an individual—what is he to do? If the Commissioner of Police has sensitive information with respect to the applicant, what is he to do if the applicant appeals to the board and the board issues the firearm licence? What would take place then? Who would be in charge there?

I come now to the board. Who comprises the board? Can we trust the personnel of the board with highly sensitive information? Is the board in existence? When was the board formed?

In clause 7, Section 22 (B) states:

"The Board shall consist of—

- (a) the Chairman of the Complaints Authority, established under section 4 of the Police Complaints Authority Act, who shall be the Chairman;"

Up to 12.00 noon that Act was unavailable at the Government Printery and it is not in the law library. I could not trace whether the Act was proclaimed. We would like to have evidence that the Police Complaints Authority Act has been proclaimed and that a board has been set up under that Act. We want to know now who is the Chairman of that board.

Section 4 of the Police Complaints Authority Act, states:

"There is established a body to be known as the Police Complaints Authority hereafter referred to as "the Authority" which shall undertake such functions as are prescribed by this Act."

At first blush section 4 does not appoint the chairman. Section 4 of the Police Complaints Authority Act which is referred to in section 22 (B) of clause 7 of the Bill before the Senate does not appoint the chairman. This is done in section 7 (1) of the Police Complaints Authority Act which states:

"The authority shall consist of five members appointed by the President on such terms and conditions as are contained in this Act, and in their instruments of appointment."

Section 7(2) states:

"The President may also appoint one member of the Authority to be its Chairman and another person to be its Secretary."

If it is not section 4, it is section 7 of the Police Complaints Authority Act that the Chairman is appointed by the President. Who is the President? In this case the President is the Cabinet. The Cabinet appoints the Chairman of the Complaints Authority *ipso facto*, the Cabinet appoints the Chairman of the Appeal Tribunal. To whom does the Chairman of the Complaints Authority refer? He refers to the Minister of National Security. Here is a chairman who is wearing two hats; suppose he switches hats. Nowadays man is getting fired in Hong Kong by fax and on television. In fact, I understand that they have to look at television every night to ensure that they are there. [Laughter] Do you see how important it is? It is important because of the complaint of the police officer. In my mind, this would not have assumed the magnitude it has, but when a police officer makes this complaint one must look closely at the legislation.

Let us look at section 8 of the Police Complaints Authority Act. Do you know who will possess the qualifications? The chairman must be an attorney who has at least 10 years standing. This is where it becomes very dangerous because it would be a person who has retired from the police service at the rank of senior superintendent or above.

This police service is not clear with the *Scotland Yard Report* and all the other reports hanging over its head. Are you going to tell me that the Chairman of the Complaints Authority and the Chairman of the Appeal Board are going to be policemen with this cloud hanging over their heads? Under section 5(b) one of the functions of the Police Complaint's Authority is to monitor an investigation and report to the Minister from time to time.

2.40 p.m.

Here we have a man who is occupying one position as chairman of the Complaint's Authority, he is also chairman of the Appeal Board, and in one function, he is to report to the Minister from time to time. He comes from a service which has a cloud hanging over its head which has not yet dissipated. In fact, that

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Scotland Yard Report is like a sword of Damocles over the head of the police service. This is a serious state of affairs.

Mr. Vice-President, we come to the third reason, the lodging of firearms and ammunition in the possession of a pleasure craft visitor.

Clause 9(c)(3):

"A pleasure craft visitor, shall upon disembarking in Trinidad and Tobago lodge any firearm or ammunition in his possession with the officer of customs at the Chaguaramas port facility."

Mr. Vice-President, we understand why Chaguaramas was chosen, it was chosen for obvious reasons. This is an island-nation, what happens to all the other ports? What happens to Point Lisas where the largest shipment of coke was discovered? What happens to Cedros where there is an ongoing warfare with the Guardia Nacional? They fired the Minister of External Affairs. I do not know what is going to happen. What happens to Kings Wharf San Fernando? What happens to Port of Spain Harbour itself? What happens to all the other harbours in the country? Why confine this only to Chaguaramas? How about Gaspar Grande, why leave that out? It now becomes alarmingly clear why Wade Hayde made that statement, he also seems to have peculiar knowledge about Carli Bay. Is that where you get your supplies?

What happens to all the other ports in the island? Why only Chaguaramas? Is it that people are free to come in with their yachts into the other ports and they do not have to check in their guns and so forth. Or is it that wherever one comes from, Chaguaramas must, by law, be your first port of call and then one can sail around the beautiful island. What happens to the people who travel to Tobago, or are we separated from Tobago now?

Sen. Merritt: Ask Sen. Callender.

Sen. Capildeo: Sen. Callender, what is happening, they leave you out?

Sen. Callender: File a question.

Sen. Capildeo: File a question? I will fax it to you. [*Laughter*]

Sen. Hosein: He is fearful of that fax.

Sen. S. Capildeo: Mr. Vice-President, one could see why I say this Bill is legislation by vaps. Somebody caught a vaps and decided to bring this Bill to the Parliament. This Bill makes absolutely no sense. None of the reasons given in the

Explanatory Note make any kind of sense. We come now to the person for whom this Bill was passed, the Director of the Trinidad and Tobago Forensic Science Centre and such other scientific officers as are designated by him. They are authorised to be in possession of prohibited weapons.

Mr. Vice-President, there was a reasoning in the Parent Act to vest the Commissioner of Police with the sole authority for issuing this firearm user's licence. That reasoning was that he, of all people in the country, with the personnel and the officers under him, would be able to investigate competently the applicant to see if he is a fit and proper person to hold a firearm user's licence. I do not mean any disrespect to whoever is holding the office of the Director of Forensic Science. I mean no disrespect to whoever is holding or whoever will hold the position, but I want to ask the question: Who is going to investigate the director to find out if he is a fit and proper person to hold such a firearm? I imagine that anybody who applies for the post to the Public Service Commission, with his curriculum vitae, which says that he is an expert in forensic science matters—nowhere in that application would anybody ask him, are you an expert in firearms or prohibited weapons? That would not come up at all. Who is going to investigate the director?

My friends there could make all the comments and remarks they want, but supposing such a person has a psychological problem? Supposing such a person is prone to violence? Supposing such a person is incapable of handling a firearm? How would they know? Where is the protection in this Bill for the officer himself? It is a *carte blanche* to give the officer the right to hold a prohibitive weapon without a firearm user's licence. Mr. Vice-President, it is a dangerous scene we are on here. Why stop at the Director of Forensic Science? Why not the judges of the High Court, where there was a scramble in the court recently? These judges are within striking distance of criminals. Why stop there? Why not the Crown Prosecutors? When my hon. Friend says that there is no logic, there is almost logic that comes from Dr. Spock. Why stop at these people? Why not shopkeepers? Why not Lotto shopowners who are the newest set of victims? Why are they not given the right to own guns too? Why not housewives? Do you see how farcical this whole thing can become? It becomes farcical because the Bill, with its good intention of allowing the director to be able to examine these weapons to do this job properly, does not afford the director the protection that he deserves. [*Interruption*] When I have to do your job I would do it. It is only a matter of time before we start doing it.

2.50 p.m.

This is why I began by saying that a golden opportunity was lost to review the entire operations of the Firearms Act. There are many issues at stake here, it is not merely giving the Director of Forensic Science the right to examine guns and so forth. There are a number of things and I have listed them which ought to have been taken into account in this Bill.

We cannot ignore the growth of firearms violence in our society, the relationship of guns to drugs in the country; the now familiar thing of weapons in schools and in dance halls; we are here now on the politics of gun control. What about our individual right to keep and bear arms? What about the debate on whether if we arm the population, that will keep the crime scene down, or is it vice versa? What about the experiment that is being tried about using the armed forces to assist the police to keep the crime down? What kind of statistics do we have about the use of guns in homes? How many people have been killed or maimed by the presence of *bona fide* firearm user's licensed guns in homes? Do the Government have the statistics? How do we deal with criminals in our society who get guns with such ease? Has anybody done any research in countries abroad to see if any gun control law has succeeded? I see Sen Rooks has tabled an amendment.

In the Rhode Island state in the United States of America one is required to fulfill a training course before one purchases a gun. We are all aware of the increasing violence among the youths of the country. We are aware of the ease at which guns are obtained. It is only a matter of time before the searches which take place and the fetes that turn up knives, daggers and so forth, turn up guns. We know that this is linked with the dramatic upsurge in the drug trade and there is no attempt to deal with any of these issues in this piece of legislation. Mr. Vice-President, we love to ape America, we mimic everything the American does. I want to quote from a book called *Firearms and Social Violence, The Other Arms Race* by Gary E. McCuen, merely to demonstrate how the Americans have been trying to deal with their problems. There are three major pieces of legislation in America: the National Firearms Act of 1934, the Federal Firearms Act of 1938 and the 1968 Gun Control Act. I know I will be met with the argument, but there is absolutely no comparison between America and Trinidad and Tobago. I want to show and to demonstrate how their legislation attempts to deal with their problems unlike what we do. For example, the 1968 Gun Control Act, says;

"Establishes categories of prohibited firearms purchasers and possessors: convicted felons, fugitives from justice, illegal drug users or addicts, minors,

anyone adjudicated mentally defective or having been committed to a mental institution, anyone dishonorably discharged from the military, illegal aliens, anyone having renounced U.S. citizenship.

Licenses and sets standards for gun dealers...

Prohibits the mail-order sales of all firearms and ammunition...

Prohibits the interstate sale of firearms....

Sets age guidelines for firearms purchasers...

Prohibits the importaion of non-sporting weapons...

Sets penalties for carrying and using firearms in crimes of violence and drug trafficking.

Prohibits importation of weapons covered in National Firearms Act...

Prohibits importation of foreign-made military surplus firearms."

The point I am trying to make is that the American legislators try to deal comprehensively with the problems they face in their legislation. What do we have here? Legislation by vaps, is absolutely nothing Sir.

In their research they have found out—a research officer name Gary Kleck specializing in criminology at Florida State University says:

"I believe, however, that the simplest and most plausible interpretation is that civilian ownership and defensive use of guns has a deterrent and social control effect on violent crime and burglary."

Has any research on this been done in our country? The sociologist in America has found that civilian ownership and defensive use of guns has a deterrent and social control effect on violent crime and burglary. We come here to discuss an amendment to the Firearms Bill and once again the Senate is in the dark; no information, no statistics, no background knowledge at all whatsoever, Sir. The research goes on:

"Criminal research confirms that Americans thwart 650,000 attacks every year with privately owned firearms. "

Have we done that kind of research here? Absolutely none. Dead silence. Worse yet, Mr. Vice-President. We grant firearm user's licences and we grant them without any restrictions whatsoever and the person who is granting such a licence can go along and buy a gun. Let me read a section called "Scary Features". It says:

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"While opponents of legislation restricting semi-automatic assault weapons argue that such weapons only 'look scary,' there is good reason why these features on assault weapons should frighten the public. Such features as silencers, folding stocks and bayonets are not cosmetic; they are in fact combat hardware. For this reason, specific types of combat hardware are listed as criteria to be considered in determining what firearms are to be classified as semi-automatic assault weapons."

Where is the legislation on that? Where are the guidelines that we have on that? It goes on:

"In the case of a rifle or a shot-gun, firearm with a folding stock sacrifices accuracy for advantages such as concealability and mobility in close combat.

In the case of a rifle or shotgun, a pistol grip facilitates firing from the hip, which allows the shooter to spray-fire the weapon. A pistol grip also helps to stabilize a forearm during rapid fire.

In the case of a rifle or a shot-gun, a barrel length less than 22 inches sacrifices accuracy and range for mobility in close combat. Coupled with a folding stock, a shorter barrel facilitates concealability.

In the case of a pistol, an ammunition magazine outside of the pistol grip is more the characteristic of an assault weapon than a sporting handgun.

A threaded barrel, designed to accommodate a flash suppressor, serves no useful sporting purpose. The flash suppressor allows the shooter to remain concealed when shooting at night, certainly an advantage in combat, but unnecessary for hunting or sporting purposes."

3.00 p.m.

"In addition, the flash suppressor is useful in preventing barrel climb during rapid fire, helping the shooter maintain control of the firearm."

I recite all this to show the complete deficiencies, silence, almost total ignorance in the Firearms Act.

"A threaded barrel designed to accommodate a silencer is useful to assassins but has no purpose for sportsmen.

A barrel mount designed to accommodate a bayonet obviously serves no sporting purpose.

A barrel shroud is designed to cool the barrel so that the firearm can shoot many rounds in rapid succession without overheating. It also allows the shooter to grasp the barrel area, without incurring serious burns, during rapid fire.

In other words, we are like children in the dark. We are playing with something we do not know about. We seek amendment to serious legislation without any kind of advice. As I said before, only one state, Rhode Island, requires a safety training course before the purchase of a gun. If the Government is intent on bringing an amendment to the Firearms Act it should do it with some level of seriousness. For example, has the Government looked outside to see how a state such as New Jersey has taken care of its problems? I quote:

"Any person in this state who desires to acquire a firearm must make application to the Chief of Police of a full-time police department in the municipality where he resides, or to the Superintendent of State Police in all other cases. Each applicant is required to be fingerprinted on the state and federal forms. The applicant fingerprint cards are forwarded to the State and the Federal Bureau of Investigation for comparison against criminal records. In addition to the FBI and SBI fingerprint record check, the authority, on receipt of the application, is required to conduct a thorough background investigation of each applicant including interviewing the two references listed on the application, checking municipal and county records, and confirming the applicant's employment. A person not subject to any of the disabilities as set forth in the statutes qualifies for the identification card or permit, or both.

A Firearms Purchaser Identification Card is valid until such time as the holder becomes subject to any of the disabilities outlined in the statutes. The card entitles the holder to purchase ..."

The point in this is if there is an appeal against the decision of the Commissioner of Police who has followed some of this—the checking of the background and so forth—where and how is the machinery of the Appeals Tribunal to check on the applicants? The Bill is silent.

Mr. Vice-President, everything is geared towards NAFTA. They fire Maraj and appoint Osouna. They are rushing into NAFTA, free trade with America. We are a population of 1.2 million. Do you know what the gun situation is in America? There are 60,000,000 handguns; 140,000,000 rifles and shotguns; 1,000,000 assault weapons; over 200,000,000 personal firearms. We are rushing headlong into free trade with America with containers going up and down. Can we take care of that?

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Where in the Bill or any of the measures brought to this Senate is any responsible provision to take care of the ordinary citizen of Trinidad and Tobago? There is absolutely none.

Mr. Vice-President, I end with a quote from William Safire. He is the acknowledged expert in words, apart from Vidia Naipaul; he is the American equivalent. In 1989 in the *New York Times* he said in an article:

"A war is being waged in the nation's capital. Not a war of ideas nor a war of words. I mean a war in the streets where people are getting killed as never before and as no where else in the peacetime history of the United States."

I adopt these words, Sir:

A war is being waged in the Republic of Trinidad and Tobago. Not a war of ideas nor a war of words. I mean a war in our streets and in our homes where people are getting killed as never before and legislation like this which ought to help does absolutely nothing.

Thank you, Mr. Vice-President.

Sen. Prof. John Spence: Mr. Vice-President, before coming to the Bill, I congratulate Minister Gift on his new appointment and also on his presence in the Senate. I also congratulate Sen. Draper now that the highest level of Government is using efficient systems for conducting business.

My concern is really with the setting up of the tribunal which seems to imply that more guns will be issued because, presumably, some applications which have been turned down by the Commissioner of Police will be reversed and allowed by the tribunal. Personally, I am very much against any measure which spreads firearms more extensively through the community. I happen to be particularly averse to firearms and when it comes to personal protection I feel that what we need to do is to address any deficiencies that there may be in the protective services rather than go towards the direction of arming ourselves. I do not support any move that would extend, rather than reduce, the number of firearms in the community.

For that reason, I would not support those clauses of the Bill which deal with setting up a tribunal in order to allow an appeal for the refusal to grant a certificate on behalf of the police. Indeed, I would rather support some mechanism which might review decisions of the Commissioner of Police where firearms are being granted. I would rather go in the direction of trying to reduce rather than increase the number that has been granted.

With respect to the other measures I have no great position against them. I really feel there should be increases in penalties. I have no difficulty with the other measures but I am not at all happy about setting up a tribunal.

Thank you, Mr. Vice-President.

Sen. Rev. Daniel Teelucksingh: Mr. Vice-President, the Firearms (Amdt.) Bill 1995 is a significant piece of legislation and one which is long overdue. Government is to be complimented because it takes us a step closer in protecting us from the gun. The gun which was the toy of yesterday's generation has today become a treacherous weapon in almost every society.

3.10 p.m.

I see this Bill against the backdrop of a small terror-stricken nation, swept but thankfully not overrun or overwhelmed by the gun culture that has already overtaken our neighbours in the North.

I support the Bill because we must find protective and defensive measures to address the frequency of gun-related crimes which indicate that guns are indeed available and used with impunity by the criminal elements in society. The apparent easy accessibility of guns, whether imported or home-made, is no secret.

It is disconcerting to see the variety of hand guns, rifles, shot guns, assault weapons of the automatic and semi-automatic types, seized from time to time by police in their exercises against the underworld. The alarming presence of such sophisticated weapons in unauthorized hands is definitely not a good sign for our society and our community.

I support the Bill if it will be a deterrent to illicit gun runners who supply firearms to black market buyers. I support the Bill because of the unbelievable number of young people who have been involved in gun-related crimes in this country, youths who may have been influenced by cinema, home videos, satellite television, who are being taught that the gun is a symbol of power and respect. We must not lose our young people to this kind of philosophy which spawns a new kind of violence.

Nevertheless, I fear that one of the greatest enemies of this Bill may be the time it will take for the trial of persons on gun-related charges. The objectives of the Bill will be defeated if trials are not swift, for we know that persons on bail may be encouraged to repeat gun crimes—and this is a common occurrence—while the justice system slowly drags itself along. One may ask—as we have asked

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already over the years—do we need a gun court where swift and speedy trials may save the Bill and any of us from many a deadly shot?

In addition to this commendable Bill, I think we need some supportive measures. Firstly, I believe that this country needs an operation ceasefire. In the light of the stiff penalties proposed in the Bill, the population should be warned and encouraged to turn in unlicensed firearms with the assurance of forgiveness, a waiver of charges and amnesty.

Secondly, we need a public campaign to step up a national drive on gun control. This kind of thinking is not only to be contained within this Chamber. Let there be a national awareness so that the entire population must be mobilized in this effort. Some of our findings must be shared with the wider population beyond this debate.

Thirdly, our law enforcement agencies have much to do in addressing criminal activities in our society so that law-abiding citizens will not be tempted to secure firearms for their personal protection. We need, at this time, to restore and to establish confidence in the system which ought to provide and guarantee the safety and security of our people.

I share the concern of Sen. Capildeo. He read from the *Trinidad Guardian*. I have found a similar clipping in the *Newsday* of Saturday, May 6, 1995 on page 2. These are some of the objections and observations to a very important clause in the Bill by the executive of the Police Second Division. I was very concerned and very worried over these observations. The President of the Second Division of the Police Association described the Bill "as another roundabout way by the Government to interfere in the affairs of the police service."

Well, a layman as myself did not see this until I read of this observation, and I am certain that possibly other members of the public might be looking at this interpretation. Is this Bill by the setting up of the Firearms Appeal Board, really an attempt to subvert and interfere in the affairs of the police service? The nation will be asking this question.

The Second Division is also asking a question that has caused me some worry, just as Sen. Capildeo and a million and more people in this country are asking and saying and wondering, whether several PNM supporters who were refused licences have been clamouring for the setting up of such an appeal board so that firearms will be available to them and for them. I am very much concerned about this.

I really hope that these differences of opinion will not lead to unpleasantness in relationships, nor such observations and objections hinder the implementation of

this very important Bill with its laudable objectives. I support the Bill, Mr. Vice-President.

I thank you.

Sen. Diana Mahabir-Wyatt: Mr. Vice-President, I do not wish to go against the Standing Orders of the Senate and repeat anything which has already come up in the course of this debate, simply for the purpose of repeating it. By and large, I do support the existence of the Bill itself, and in particular I would like to give some support to the amendment which has been recommended by Sen. Rooks. I think that people who even want to apply for a firearm should show that they are able to satisfy some sort of official body or school that they know how to use such guns. I think that this should be more than just a two-lesson-and-get-your-certificate sort of training.

While I recognize that given the state of crime in the country a number of people feel—particularly business people, but not solely business people—that it is necessary to have some sort of firearm on the premises of their business or in their possession in order to protect themselves, their family, their employees and their business, I think that it is fairly true to state that in those countries where it is fairly easy to get firearms, such as in the United States as Sen. Capildeo was pointing out, where virtually all you have to do—except for in one state—is just go into a store and buy firearms without any restriction, that the number of people who suffer handicaps and fatalities as a result of misuse of firearms is amazingly high. While there are certain researchers, as he pointed out, who feel that it has possibly lowered the crime rate, there are equally others who are on the anti-gun lobby who have endeavoured to prove that it, in fact, has not lowered the crime rate but, in fact, has raised it simply because criminals can get guns just as easily as people who have legitimate concerns in dealing with them.

It is also a very unfortunate fact that in countries where firearms are readily available that there are many accidents which take place in reference to people who are not properly trained in using those firearms, or where they have been trained, they have been careless in terms of the usage, the cleaning of guns, or have allowed them to be stored in places where children or other untrained members of a household have been able to get hold of them.

3.20 p.m.

I am particularly concerned about members of a household having access to a firearm simply because they know where it is stored and are able to get to it in the absence of someone who is trained to handle it.

Very often one reads of stories in foreign newspapers—particularly those in the United States of America and Canada where firearms are very easy to get hold of—where teenagers have been told by their proud fathers to "learn how to clean this gun properly" and the gun has gone off and shot them, simply because they were by themselves, trying to carry out orders or being instructed on how to use a gun, when in fact, they did not know how to use a gun properly and were not properly supervised in so doing.

This is not confined to those countries where it is easy to get a licence for a gun. I can remember, as a teenager, two of my school friends died of gunshot wounds in similar situations. It was perfectly legal for them to have a gun, it is just that in cleaning the gun or somebody else's cleaning the gun, or even with small children with what are called BB guns going off and pellets bedding themselves in the skulls or the eyes of another child and the child died.

For that reason, I think we have to be extremely careful and to have very careful restrictions on how guns can be used and who can use them. I am quite happy to have an appeal board set up to look into the argument that sometimes guns are granted to people who should not have them. This is one of the functions of the appeal board. When one is refused a licence for a gun, one can appeal to the board, and as well where the Commissioner of Police has decided that they should have.

What I would like to know is in the event that the Commissioner of Police has decided, under sections 17 and 21, to grant a licence for a gun, can anyone else, under the original Act object to this? This is something which I hope the Minister would answer when he is winding-up the debate. If this is not so, should there not be provision for this to be included in the Bill?

Secondly, I have frequently noticed in the press that in instances where young people have been involved in armed robbery, the firearms used are home-made. In other words, no one applied for a licence for those guns. Those young people have learnt—as is fairly simply done through magazines which are currently in circulation—how to put home-made guns together.

This, obviously, does not come under the ambit of this Bill but because this is happening so frequently, I think that the penalties for unauthorized possession of any kind of firearms should be increased and more strictly enforced.

The third issue I would like to mention has to do with the use of prohibited weapons. Last week Sen. Hosein referred to the use of such things as mace which he thought should be allowed for women, [*Interruption*] I think. Sen. Merritt was

recommending that for women, mace is not as important as submachine guns. I would just like to sound a note of caution here. Mace can be very easily carried around on one's person, and again I understand—as indeed, any woman in this country understands—the need for self-defence when one is in public places, although, I would point out that most attacks on women are not made on the streets, they are made in their homes. That is a statistical fact. If we are to consider the legalization of such things as mace, which can be carried in one's pocket or in a purse, I would just like to point out that this can be used against people just as it can be used for their defence.

It is quite simple, if it is legalized—and I am presuming that Sen. Hosein is referring to easy and free access to things like this—I would be very nervous about such free access on the part of anyone in the population [*Interruption*] Not free access, but legal access under a licence? [*Interruption*] I am glad to be corrected on that point. If we are going to have things like mace we will need to have a licence for them just as much as we would for anything else, because it is astonishing easy, for someone to whip down the street and mace a law-abiding citizen in the face, grab his or her briefcase or purse as the case may be, and run off; which again, is one of the dangers of some of the non-conventional weapons and one of the dangers of licensing them as well.

There is one last point which I would like the Minister to look into. Generally, in relation to people applying for guns of various sorts—I do not know whether this is covered presently or adequately in the present legislation which includes hunting weapons, for which various people have licences because they are licensed hunters—that is provision for storage within the homes or places of business.

I am aware that in a number of other jurisdictions there are strict regulations about keeping hunting firearms in vaults which have to be made to certain government specifications where these are going to be kept in the homes or in the place of business. While I accept the point of self-defence for those people who need firearms within their homes, to keep them within ready access in the case of their homes being broken into and at the same time to have them so secured that they are not likely to get into the hands of inquisitive, bright, intelligent and curious children, or teenagers, I think this is something we would have to take very seriously.

Thank you, Mr. Vice-President.

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. Vice-President, I have listened to the concerns raised by those Senators who have made contributions, and I would start with Sen. Capildeo.

In dealing with Sen. Capildeo, one is sometimes placed in a really difficult position to follow the trend of his argument. I seem to recall back in 1992, when we had debated an amendment to the Firearms Act, Sen. Capildeo was one of those who was most vociferous in removing this discretionary responsibility which was placed on the Commissioner of Police in the granting of Firearm Users' Licences.

3.30 p.m.

As a matter of fact he made the recommendation that a tribunal consisting of three men be appointed to deal with the grant of an issue of firearm user's licences. He suggested that we reduce the burden of the poor Commissioner of Police and it was a terrible burden for one such individual to have. He said especially when there were so many accusations flying left right and centre.

When I moved this Bill I had indicated one of the reasons why I accepted the sentiment which came from not only the Opposition Benches but also the Independent Benches, to the effect that there should be a review body with respect to the grant of firearm user's licences. I had also indicated that the Minister of National Security receives many applications for review. I did not feel that the Minister of National Security should have that responsibility. Basically, this is what led to the proposal that an appeal board be established.

Some of the reasons that are put forward by applicants who may have had their licences refused—they would bring a lot of evidence before the Minister of National Security, sometimes a long list showing the names of people who have been given firearm users licences and providing proof that these people have no justification for having licences, and people who had justification for getting firearm user's licences were refused out and out. Then there are people who in the course of their business move with a lot of cash. One can easily ask: Why not retain a security service to move it? There are situations where businessmen, in particular, have a lot of cash on their premises and they are denied the means by which to protect their property.

As I said, it is difficult to understand where Sen. Capildeo is coming from when he questions the—

Sen. Capildeo: May I make my position quite clear. I did ask for the tribunal which is to be an independent one. You can rest our minds at ease with this: Is the Chairman of the Police Complaints Authority Chairman appointed? Who is he? When was he appointed?

Sen. The Hon. R. Huggins: What does that have to do with independence? I really fail to see what that has to do with independence. I will deal with that particular issue of the Police Complaints Authority shortly.

We in the Ministry of National Security feel that there is need for the appointment of some review tribunal and this is the method by which we have sought to deal with the matter.

Sen. Prof. Spence: I wonder if the hon. Minister would explain whether this tribunal also addresses the case that we put forward that some get licences when they should not get. Does this legislation address that? In his argument he said that there were people who said to him that some persons who should get did not while others who got, should not get. That is the argument he was just using.

Sen. The Hon. R. Huggins: Yes, the Appeal Tribunal will in fact deal with such matters. For example, those persons who have been refused have the right to appeal to this tribunal. I cannot see why those who have been granted would want to go to the board.

Sen. Prof. Spence: People were asking why they should not get because those who should not get, did get. How are you dealing with that problem? I take it that this has to do with the question of somebody who is aggrieved that someone else has a licence which he should not have. If you are using that argument, for example, those battered wives.

Sen. The Hon. R. Huggins: I would think that in such a case there is the facility for someone lodging an objection on the basis of an application made to the Commissioner. I would think that the Appeal Board would in fact have the authority to entertain such complaints in terms of the grant of a firearm user's licence.

I did not understand the argument of Sen. Capildeo as to why the Appeal Board was not being given the power to order the Commissioner to grant the licence if it is found. I would think in effect that is what clause 22 (a) (2) is saying. If it allows the appeal and grants the licence it is really another way, in my view, of an order being directed to the Commissioner to grant the firearm user's licence. I may have misunderstood him, but I am not clear on what he was exactly saying.

Sen. Capildeo: I will read it slowly. In clause 7, section 22A(2) states:

"In the determination of an appeal, the Board shall either—

- (a) dismiss the appeal;"

That is very straightforward.

"(b) allow the appeal and grant or reinstate the licence, permit or certificate."

The board will give it, not the Commissioner. I am suggesting that you keep the authority in one office and direct that the board will have the power to direct the Commissioner of Police to give the firearm user's licence. There will be one office doing it and not two.

I got worried with Wade Hayde's statement. When a senior policeman makes a statement like that one has to pay attention to it.

Sen. The Hon. R. Huggins: Senior policeman?

Sen. Capildeo: He is an attorney-at-law too; just like you.

Sen. The Hon. R. Huggins: He is a corporal. I do not know he is a senior policeman.

My view is that it is achieving the same purpose. Again the question was raised as to the Commissioner having some kind of information which may be of a security nature that he may not want to disclose. Again, I have some difficulty with that. The Appeal Board sits in camera. When the statement was made I was trying to contemplate a situation whereby the Commissioner could have some kind of information of a security nature which he feels compelled not to disclose to the appeal tribunal in terms of the grant of a firearm licence.

Sen. Capildeo: Can you not perceive such a situation?

Sen. The Hon. R. Huggins: No. Maybe if you can explain to me how such a situation could arise I would consider it.

Sen. Capildeo: If you are tapping a drug dealer's telephone or a politician's and the Commissioner gets very sensitive information on that person, that person could make an application to the Commissioner, and on the basis of that sensitive information he could refuse the application. The applicant could appeal to the tribunal, and the Commissioner, in his wisdom, could say that he cannot go to three persons whether in camera or out of camera and give state secrets out. What would he do particularly when the Chairman of the Police Complaints Authority is the Chairman of this appeal tribunal?

Sen. The Hon. R. Huggins: Mr. Vice-President, I hoped that he would have used a different example. Let me just indicate I do not know anything about tapping people's telephones. I do not know whether he was trying to get the point across in relation to a statement I read on the newspapers recently.

3.40 p.m.

If the Commissioner has reason to believe that somebody is alleged to be involved in drug trafficking and therefore should not really be given a firearm user's licence, then I really do not have a difficulty with that, I really cannot see why the Commissioner would refuse or feel that he is breaching some state security to tell that to the Appeal Tribunal. I really have difficulty with that, to me that really does not amount to any state secret. *[Interruption]* Then we can go on and on and say all sorts of things.

We on this side are of the view that it is, in fact, necessary to put in place a Firearms Appeal Board, principally, so that there would be some equity in the whole question of dealing with firearm user's licences.

Mr. Vice-President, I would like to touch on the question of the Police Complaint's Authority because much has been said about it. There have been some difficulty encountered in fully establishing the Complaint's Authority. As a matter of fact, instruments of appointments have been prepared for those persons who would be members of the Police Complaint's Authority. Unfortunately, the person who was appointed chairman has since taken up a new appointment and has, in fact, indicated that he would no longer be able to hold that position. The person who was appointed was Mr. Justice Alcalde Warner. He has since taken up a new appointment and we are in the process of trying to find another suitable replacement for him. By virtue of the fact that one sees the type of person the Cabinet, in its wisdom, sought to appoint, it should just send a message to those who have doubts. Other members of the board are Mr. Carlyle Chankersingh, Mr. Sebastian Ventour, an attorney at law, Mr. Elton Prescott and Mrs. Kathleen Boswell-Inniss, who would also act as secretary. *[Interruption]* No, there are some problems in fully establishing the board and we are working very hard at putting it into effect.

Sen. Hosein: Mr. Vice-President, on a point of order.

From what I am now hearing, it seems that the Minister mislead the House last Tuesday. He told me, in no uncertain terms, that the board had been appointed, functioning and everything was fine.

Sen. The Hon. R. Huggins: Mr. Vice-President, I never said anything about functioning, I said the board was appointed.

I would like to deal briefly with Sen. John Rooks' amendment. I think the proposed amendment is, in fact, a very good proposal but I am of the view that it is

something that could be more properly dealt with in the Regulations. Looking at the proposal after it was made, there are many things that would have to be put in place to deal with the whole question of issuance of a certificate of competence in the use of a firearm user's licence.

There are very few organizations which give that type of tuition. I think there is the Trinidad Rifle Association and the Southern Rifle Association, both of which are private bodies. I think there are one or two other bodies which are firearm dealers and they do provide some sort of training. Having looked at the amendment and the Regulations, I am of the view that it is something that could be more properly dealt with in detail in the Regulations. I would really prefer to deal with this in the Regulations because we may also have to set up a mechanism whereby there are procedures for the issuance of certificates. The situation would arise where—I would use a term the Opposition likes to use—there may be this friend, friend kind of attitude and I anticipate there could be some difficulties if proper procedures are not put in place to deal with the grant of these certificates. The Regulations leave the avenue open for including that requirement in it and I would prefer to look at it from that aspect, rather than by way of a substantive amendment to the principal Act. I think it is a commendable proposal, one with which we would certainly deal.

Sen. Prof. Spence raised the issue of whether the whole concept of the Appeal Tribunal was meant to increase guns on the outside. That is not the purpose behind the establishment of the Appeal Tribunal. As I said before, the purpose of establishment of the Appeal Tribunal is really to ensure that there is some sort of equity and fairplay in the whole question of the issue of firearm user's licences.

Let me assure Sen. Rev. Teelucksingh, that this is by no means an attempt to subvert the powers of the Commissioner of Police. He mentioned some statement about PNM supporters who were refused applications. Again, I would speak for myself insofar as I exercise the responsibilities of a particular office. I know of no such situation.

Sen. Rev. Teelucksingh: Mr. Vice-President, I would like to ask the hon. Minister, if he made any attempts to refute the allegations made by the association in the Trinidad and Tobago press.

Sen. The Hon. R. Huggins: Mr. Vice-President, I really had no discussion with the association on these allegations. These are the types of allegations that the association has made in the past and would continue to make in the future. We have had discussions with those persons with whom we felt it necessary to have

discussions; the Commissioner of Police, the Chief of Defence Staff and so forth. I really do not see that it was necessary to try to convince the association—although I do not believe they could be convinced. I really do not know from where they got all this information about PNM supporters being refused firearm users' licences.

As I said before, I have received several letters, as a matter of fact most of the letters I have received—and if I am forced to produce them here I will—came from Opposition parliamentarians questioning the bias in the grant and refusal of firearm users' licences but I treat all of them the same way. I would even go further and say that I received a letter from one of the senior Opposition parliamentarians recently commending me for the fact that I am the only Minister who responds promptly to their complaints. [*Applause*] Mr. Vice-President, that is just an indication of how I deal with letters of complaints that come from any quarter.

3.50 p.m.

In the course of Sen. Mahadeo's contribution with the concern she had raised with the issue relating to public servants, there is an amendment which has been tabled to deal with that issue, it was not, as I said, the intention to have public servants perform the function of the appeal board. It is really the intention to have public servants perform supporting roles for the appeal board; as for example, the DPA department now acts with respect to the Police and Public Service Commissions.

If I may go back to Sen. Capildeo once more, again I must indicate that I have difficulties at times following him. His concerns expressed with respect to the Director of the Forensic Science Centre. As I had explained in presenting this Bill, there is a particular problem with that office—in that it is to that office that all firearms that have been used in the commission of offences are sent. By the very nature of the job of the scientific officer or the director that they need to have these guns in their possession, either on the premises of the Forensic Science Centre or at some firing range in order to carry out their ballistic tests. All we were seeking to do is to protect these officers when they are moving from one point to the other to carry out these tests. We do not want a situation where an over enthusiastic police officer stops the car of the Director of the Forensic Science Centre who is going to the range in Tucker Valley to carry out certain ballistic examinations and then charges him for having a weapon in his possession. So it is not a case of having to protect the director from shooting himself and that kind of thing. It is really to give him protection, because it is something that has been raised by the director for years.

Firearms (Amdt.) Bill
[SEN. THE HON. R. HUGGINS]

Tuesday May 09, 1995

There are situations where some of the scientific officers refuse to take the weapons off the premises unless they are accompanied by police officers to go to the range, that invariably leads to delays in completing their examinations because very often they are told no officer is available. One has to understand that these people are well trained in the use of these firearms. I do not think that the Senator should have any concern about these officers when they are going to carry out their tests as is expected of them.

Sen. Prof. Spence: Mr. Vice-President, would it be better in that case to have a special provision for them in the performance of their duties or some thing, rather than just to exempt them completely?

Sen. The Hon. R. Huggins: This is the way it has been done, Mr. Vice-President, to exempt those who have to use weapons as a normal part of their duties, we really saw no reason to change the wording to address that person.

Sen. Muntaz Hosein raised some ancillary matters about why we do not legitimize the use of mace. I certainly have no intention of legitimizing the use of mace in this country, probably next term somebody else might have a different view.

He also raised the question of the firearm user's licence itself. There have been many complaints about the book form that is at present used. We are, in fact exploring the possibilities of having a laminated card replace the book, but then we may have to look at the whole procedure of whether it is renewed annually or triannually, but it is something at which we are looking.

Sen. Hydar Ali raised the question of the percentage of firearm applications that have been refused, and I do not think the percentage which he suggested is correct, it is more like 50 per cent that have been refused. In the figures I quoted, the 5,000 figure, many of them had to do with renewals as opposed to new applications. In fact, the new applications were about 2,926 of which 1,440 were refused; in that figure there was the question of renewals of firearm user's licence.

Sen. Hosein: Mr. Vice-President, I wonder if the Minister would give us the benefit of his views on psychological testing of applicants.

Sen. The Hon. R. Huggins: Mr. Vice-President, I certainly have not given any consideration to the psychological testing of applicants. I really do not see how one can put something like that into effect. As I said before, it is simple to say that one should do this and that, but one has to try to understand the difficulty of giving

effect to some of those things one calls "requirements". How does one really go about psychologically testing 6,000 people? What basis are you going to use to have somebody psychologically tested? I could say certain things about psychological testing, but I would prefer not to say it before I run into association problems. It is a difficult requirement to seek to fulfill. I am afraid that that is not really on the cards at this point in time. I think I have dealt mainly with—
[*Interruption*]

Sen. Merritt: Mr. Vice-President, before the Minister takes his seat, I remembered Sen. Capildeo had raised a query on clause 9, why is it the Bill only concentrates on Chaguaramas and the pleasure craft? We have a number of trawlers and other sea-faring vessels that come in on ports like Sea Lots, Kings Wharf and Point Lisas, why does not the Minister extend this provision to those other ports and those other types of vessels? I expect that the captains and various senior officers in these sea vessels would have arms and ammunition, so what provision is made for them when they disembark in our country?

4.00 p.m.

Sen. The Hon. R. Huggins: Mr. Vice-President, the Port of Spain port is a commercial port and I am told that there are already regulations in place to deal with that type of thing. The issue of the Chaguaramas Port came up principally to deal with pleasure crafts. Though it is not the ideal arrangement, the arrangement is that all pleasure crafts should call in at the Chaguaramas Port before going anywhere else. That is why it was restricted to the Chaguaramas Port. One may see vessels all over Tobago, in Pigeon Point, Charlotteville—this is why I am saying it is not probably the ideal situation—but they are required to call into that port first and get their clearance and then they are free to go elsewhere. One has to understand that not every place one sees a boat is really a port. For example, for a vessel to dock in Man-O-War Bay, Charlotteville it has to get the Minister of National Security's approval to go in there.

Sen. Merritt: Mr. Vice-President, the Minister spoke about these crafts going to Chaguaramas before they go to any other port. Is there the monitoring mechanism in place to ensure that these crafts go to Chaguaramas before they go to any one of the other ports?

Sen. The Hon. R. Huggins: Mr. Vice-President, yes the monitoring mechanism is in place. The Coast Guard performs that function. The Coast Guard patrols around the island regularly, also in Tobago where they will board vessels and ask to see their clearance documents. We have to understand that no system is

perfect. Somebody will try a fast one and slip in for a few hours before he is actually picked up. The whole of Trinidad and Tobago is coastline and it is extremely difficult, with the resources which we have at present, to deal adequately with the type of security that is required. We are at this time looking at different solutions.

For example, one of the things we are looking at is the installation of a radar system. The particular problem which exists in Trinidad is the use of pirogues, and it is not every radar system that can pick up a pirogue. Most radar systems cannot give coverage under 20 or 30 feet. One has to get the proper type system. Right now there is a consultant doing an exercise for the Ministry of National Security so far as it relates to communication. One of the things they have been asked to look at is to advise on the proper kind of radar system to install. The initial report that came back, particularly with respect to Tobago, is that it is a telecommunications nightmare. To put a system in Tobago alone will cost, probably, twice the amount it will cost to put a system in Trinidad because of the topography of Tobago. There are difficulties. We are trying our best to cope with those situations. It is not something that will be solved overnight or in five years.

Sen. Rooks: Mr. Vice-President, I suggest to the Minister that there is radio contact and radar at Piarco which covers quite a far distance out and that can be used to locate the boats coming in. These are all tourists boats and many of them would like to go straight to Tobago. Once they come into Chaguaramas they will be beating against the wind to get to Tobago. I think we should consider having a place in Tobago designated for letting the boats go straight there because once they get into Chaguaramas, Tobago is out. We want to build tourism in Tobago just as well.

I do not quite understand the difficulty in putting in my suggestion about the safe handling of the guns being prior to issuing the licence. Is it only because there are two outfits that can provide this circumstance? I did not understand what there was against it. He mentioned that there are several things against it but only mentioned the two outfits.

Sen. The Hon. R. Huggins: Mr. Vice-President, if I may deal with the last point first, what I said is, basically, there are two organizations. Immediately that requirement comes into place, there would be many applications to license other ranges. There are indoor ranges—well, there are only outdoor ranges. All the outdoor ranges fall under the jurisdiction of the Chief of Defence Staff. As I said before, while it is extremely commendable it is something that one would have to look deeper into and regulations may probably have to extend to the cost of these

certificates. Who would control the cost? Who would set the standards that one must achieve before he gets a certificate? I expect it would be the Commissioner of Police. This is why I am saying it is preferable to deal with it in the regulations. There is more scope for detail if one goes via the regulations than to put a substantive provision in the parent Act. There are many things at which one will have to look.

With respect to the radar the Senator spoke about, I am aware that there is radar at Piarco. What I was talking about is the fact that it may extend far but there is limited coverage in terms of altitude. I am certain he must have read many novels about war time and planes flying at certain altitudes in order to avoid radar contact. It is a fact! A pirogue is very low on the water—even a pleasure craft is very low on the water—and there are certain areas where they can come into the country and not be detected. If one is putting in a radar system, one has to ensure that it is one that will give coverage at least at sea level. That does not now exist. The radar system which is installed here is basically to deal with air craft and the likes.

Sen. Mahabir-Wyatt: Mr. Vice-President, I am sure that the hon. Minister is tired of being a yoyo up and down but he was about to wind up and he did not answer two points which I had made and I was hoping he would. One has to do with the provision of proper storage facilities for the rifles if they are to be kept on the premises.

The other one, when he touched on it earlier I do not feel that it was adequately addressed and I hope he would look at it again. What I am suggesting is that clause 7 of the Bill, section 22A (2) (b) should read as follows:

In the determination of an appeal, the Board shall either:

- (b) allow the appeal, withdraw, grant or reinstate the licence, permit or certificate.

I think there can be instances when the Commissioner of Police may grant a licence not getting adequate information and it could be to a person who is, as Sen. Spence pointed out, mentally unstable or violent. If probation officers, psychiatrists, social workers or an adequate person makes an objection—it will have to be regulated—the board should be allowed to withdraw the licence or inform the Commissioner that the licence should be withdrawn.

Sen. The Hon. R. Huggins: Mr. Vice-President, the point is taken and I will look at it in the committee stage of the Bill.

4.10 p.m.

Sen. Rooks: Before the Minister takes his seat, is it possible that the regulations be brought before Parliament for affirmative resolution?

Sen. The Hon. R. Huggins: Mr. Vice-President, there are already provisions in the principal Act which dictate how the regulations come to Parliament. I think it is section 36 of the Parent Act.

With respect to the storage of weapons, as it stands now, part of the investigation carried out by the police is they are supposed to go on the premises and to investigate as to the storage of the weapons. Normally with respect to firearm users' licences relating to pistols, one of the requirements is that you are supposed to have some secured place like a safe at your home. I am in no position to say whether every applicant who has been successful, in fact, has a place much more secure than under the pillow for storing a weapon, but from my information, one is really required to have at least a safe at home in which it would be locked. When you are leaving the country, the law requires that you turn the weapon into the nearest police station for safe-keeping.

With respect to hunting weapons, shotguns, in particular, the law is that they be kept in a box which is chained with a large padlock placed on it. That is the requirement. So that if a police officer goes to a hunter's home or a farmer's home where he has a shotgun for the purposes of killing pests and it is not in a secured box, the weapon can be seized. As far as I am aware, that is the only requirement insofar as shotguns are concerned, that they must be placed in a strong box which is chained and I think the regulations say the chain must be put on the box in a particular way. It must go the length and breadth of the box and where the padlock must be and the type of padlock, and that type of thing.

As I said, with respect to handguns, the requirement is that they normally come and investigate to see whether you have a safe. It is not unknown for persons to take a safe home when the investigator is coming and then take it back to the office. I have known that to have happened before. Maybe the officers should stop telegraphing when they are coming to carry out investigations. They normally make a call and make an appointment about three days in advance, which really gives one a lot of time to put things in place to satisfy that requirement. But the requirement is that you are supposed to have a safe.

I think I have dealt with most of the concerns raised and I, therefore, beg to move that the Bill be read a second time.

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 to 5 ordered to stand part of the Bill.

Clause 6.

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

Sen. Spence: Mr. Chairman, my position is that this clause be deleted.

Sen. R. Huggins: Mr. Chairman, that really defeats our whole purpose. I cannot agree with that proposal.

Mr. Chairman: You are suggesting, Sen. Spence, that the entire clause 6 be deleted?

Sen. Spence: Yes, Mr. Chairman.

Question, on amendment, put and negatived.

Clause 6 ordered to stand part of the Bill.

Clause 7.

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

Sen. Daly: Mr. Chairman, I regret not having this in writing but it is very brief and it occurred to me in the course of the debate. I would like to propose in relation to section 22A(2)(b), after the words, "allow the appeal and", insert the words "direct the commissioner with or without conditions to." So it would read:

"Allow the appeal and direct the commissioner with or without conditions to grant or reinstate the licence, permit or certificate."

The purpose of that is two-fold for the consideration of the Government. First of all, I think there is much force for the fact that the issuing authority as was said in the debate should remain one person. That is to say, if an appeal is allowed, a direction is given to the Commissioner who normally issues the licences, to do so. And secondly, it is important that the board not face the two extremes of either dismissing the appeal or allowing the appeal. For whatever reason, when they hear both sides of the dispute—presumably the Commissioner will have something to say—they may want to impose particular conditions relating to allowing the person to have the licence. It is quite normal that appeal tribunals should be able to impose conditionalities to meet the justice of the case.

Sen. Mahabir-Wyatt: Mr. Chairman, immediately after the words as suggested by Sen. Daly, if we could have the word "withdraw". In other words, they have the power to withdraw and/or reinstate the licence.

Mr. Chairman: It is very difficult when these amendments are not in writing. Since it appears that we are going to have some debate on this, I would really want to have this in writing. I am sensitive to the issues being raised. Your suggestion, Sen. Mahabir-Wyatt, is that we do what in 22(2)(b)?

Sen. Mahabir-Wyatt: To include the word "withdraw" before the word "grant". It should read:

"In the determination of an appeal, the Board shall either -

- (b) allow the appeal, or the board shall be able to withdraw the licence, grant the licence or reinstate the licence.

In other words, if you are given a licence and I am a psychiatrist and I say you should not be given a licence, I can appeal to the board and say you should not be given a licence.

4.20 p.m.

Mr. Chairman: Let me hear what Sen. Huggins has to say.

Sen. Huggins: Mr. Chairman, I indicated that I would have given consideration to Sen. Mahabir-Wyatt's amendment, but as Sen. Capildeo—and I am probably agreeing with him for once—I am having some difficulty as to really the *locus standi* of such a person to approach the appeal tribunal to have a licence withdrawn.

Sen. Mahabir-Wyatt: Mr. Chairman, I understand the question being asked of how can this be done. If a licence is not granted by the Commissioner of Police to Sen. Capildeo, he can appeal to the board—presumably there will be regulations drawn up. If a licence is granted to Sen. Capildeo and I have reason to believe or it has come to my knowledge—this is published in the *Gazette* is it?

Hon. Senator: No.

Sen. Mahabir-Wyatt: If it comes to my knowledge—however it comes to my knowledge—and I am his psychiatrist and I have reason to believe the he is mentally unsound and unstable, and may use the firearm to shoot up the Senate or whatever, surely, I should be able to request that this licence be withdrawn.

Sen. Huggins: Mr. Chairman, in that case I do not really believe that the appeal tribunal is the proper forum to which to go. The Commissioner of Police

continues to have the right to withdraw a licence. If information subsequently comes to hand that the person is not a fit and proper person to have a firearm user's licence, one can then approach the Commissioner of Police with the information, and he has the authority, under the Act, to withdraw that licence or permit. That, in my view, is really not a matter for the appeal tribunal.

It is probably that the Commissioner of Police, acting on the psychiatrist's advice, withdraws it, then it leaves it open to the former holder to then approach the appeal board and say, "Look, my licence has been withdrawn". Therefore, it is in that circumstance that the appeal tribunal can then properly act in relation to that matter.

Sen. Mahabir-Wyatt: Mr. Chairman, I accept.

Mr. Chairman: Are you withdrawing your amendment, Sen. Mahabir-Wyatt?

Sen. Mahabir-Wyatt: I withdraw the amendment.

Sen. Daly: Mr. Chairman, I beg to propose that clause 7, section 22A(2)(b), be amended as follows:

After the word "and" insert the words "direct the Commissioner of Police with or without condition to"

Sen. Huggins: Mr. Chairman, I wonder if Sen. Daly, being my erstwhile senior, could help me on this legal matter that is—

To use the wording suggested by Sen. Daly is, in effect, giving the appeal board a review power. I am wondering whether that is going to create some inconsistency with the inherent jurisdiction of the High Court.

Sen. Daly: Mr. Chairman, what I want to achieve are two things. Firstly, the board does not grant licences. If it allows an appeal, it directs the Commissioner of Police to grant the licence. I think if we look at the provisions of other appeal boards—as tax assessments—I have not checked it, but I think they allow the appeal and send a directive to the Board of Inland Revenue or whatever. I think National Insurance Board, as well, as Sen. Dean is reminding me.

I do not want the board to have the whole infrastructure to grant licences. The issuing authority remains the Commissioner of Police.

Secondly, I think it is important, depending on what evidence the board receives, that they may not want to simply dismiss the appeal or, more importantly, allow the appeal *carte blanche*. They may want to impose some conditions on the grant of the licence for whatever reason.

I am not a parliamentary draftsman, as I keep saying, but that is my objective. I do not think it has anything to do with the High Court, it has to do with the fact that one does not want them to have only those two options.

Sen. Huggins: Mr. Chairman, I think it is excellent drafting, but as I said, I was just having a slight legal problem.

On reflection, I would have no problem going with the suggested amendment.

Question, on amendment, put and agreed to.

Sen. Hosein: Mr. Chairman, I propose that section 22B be amended. We are of the view that the board should not be constituted by the Cabinet. It should be by the President on the advice of the Prime Minister and Leader of the Opposition. We do not want to politicize this matter.

Sen. Huggins: Mr. Chairman, there is absolutely no rational basis for that amendment.

Sen. Hosein: Mr. Chairman, the whole idea of the argument put forward by the Minister of National Security, when, earlier in the debate, he spoke about the "friend thing". We know what happened, not with the present Commissioner of Police, but the one before that. There are so many instances of complaints that only people belonging to the PNM were given firearms licences under this regime, and the same thing is likely to happen if we allow the executive to appoint this appeal board. The same thing would happen.

If one looks at the complaint of the Police Second Division, they are alluding to the very same thing, so we cannot agree to that.

Sen. W. Mark: Mr. Chairman, I just want to add that we are in favour of the tribunal. There is no question about that, but I think we want to ensure that there is some degree of independence and impartiality in the issuing in the event of appeals going to the tribunal, that there is some perception of independence. I do not believe that the hon. Minister of National Security should really have an objection, particularly given the fears that have been expressed already.

4.30 p.m.

We are trying to establish that there would be a chairman who would be appointed by the Minister. The Minister appoints the Chairman under the Police Complaints Authority Act and then there are two other members who are appointed by the Cabinet of the country. We are seeing a situation where there will be three persons who will be political appointees. We are saying let us try to balance it to ensure

that some even handedness is executed in their responsibility and duty. I cannot see how the Minister of National Security would have serious objection to that except if the Government wants—as what the President of the Second Division Police said—to give their friends arms.

Sen. Merritt: In addition, the Minister did not indicate any special requirement for appointing these members to the Appeal Board. There is no criteria for the two additional members.

Sen. Huggins: I do not understand this point. The Chairman of the Police Complaints Authority Board is appointed by the President. For explanation I will read the instrument of appointment. It states:

"In exercise of the power vested in me by subsection 1 and 2 of section 7 of the Police Complaints Authority Act 1993, I Noor Mohamed Hassanali President as aforesaid do hereby appoint you a Member and Chairman of the Police Complaints Authority."

This is the President appointing. If they want me to appoint they should say so. I will agree with that. He said that it is the Minister who appoints the chairman. I do not appoint any chairman.

Sen. Daly: I think we really must be a little careful here. First of all it is the President who is the appointing authority, but in the absence of any special direction in the Constitution or the Act, he really does so on the advice of the Cabinet. It is really the Cabinet's appointment. We need to be careful about that. I am more concerned that we are going to set a precedent.

This is not a superior court of record; this is what we call an inferior tribunal. This does not mean it is inferior in competence, but it is below the level of a superior court of records. Inferior contrasts with superior. I am concerned that we are setting a precedent here for the appointment of persons to these lower tribunals. I do not think we should set such a precedent by the amendment which is proposed by Sen. Hosein. We also have the difficulty now that apparently these consultations are going to be made public. I also have a problem with that.

Question on amendment [Sen. Hosein] put and negatived.

Sen. Huggins: Mr. Chairman, I beg to propose one amendment to clause 7, section 22C. Put a new subclause (c) which reads, "a Member of the Tobago House of Assembly" and renumber (c) as (d) and (d) as (e) respectively.

Question, on amendment, put and agreed to.

Sen. Hosein: It is basically the same amendment that we made earlier on. The core of the amendment is the same. We do not believe that these persons referred to in section 22D should be appointed by the Cabinet. It must be seen to be partial and it must not be impartial. We do not believe that we can get that via the Cabinet, with the greatest of respect to all concerned.

Question, on amendment, put and negatived.

Sen. Daly: Mr. Chairman, with respect to section 22H(2), I beg to propose the following amendment. After the words "may permit" insert the words "the commissioner or".

I think it important in section 22H (2) to provide for the Commissioner to appear before the Appeal Board. We do not want to give the impression that this is some complaints body or a body from which he is excluded. It would read the Commissioner or an applicant.

I beg to propose the following amendment. Delete the word "his" after the words "applicant or" and insert "their respective representatives".

I think it is very important that the Commissioner has a role before the Appeal Board.

Sen. Huggins: Mr. Chairman I have no objection. It is just a question of drafting. It is just the use of the word "or". We would have to say the board shall hear applications in camera and may permit an applicant or his representative and the commissioner or his representative to appear before the Board.

Sen. Persad-Bissessar: On that same point the Minister has raised the issue of the "or" being an alternative. The point was raised in the debate by Sen. Hosein that when you have an "or" it suggests the applicant or his representative. In other words that both cannot be there at the same time. The Minister is now saying that there could be confusion. If there is "and/or" would that confusion not also arise?

4.40 p.m.

Mr. Chairman: Sen. Persad-Bissessar what are you suggesting?

Sen. Persad-Bissessar: Mr. Chairman, I am suggesting, "and/or his representative".

Sen. Huggins: We cannot use "and/or."

Sen. Persad-Bissessar: Ask your drafters if we can incorporate it in some way, but it is ambiguous as it is.

Mr. Chairman: Let us look at the amendment we have before us, section 22H(2) should now read:

"The Board shall hear applications in camera and may permit an applicant or his representative, the Commissioner or his representative to appear before the Board."

Question, on amendment, put and agreed to.

Mr. Chairman: With respect to clause 7 section 22I, there is an amendment proposed by the hon. Minister of National Security.

Sen. Huggins: Mr. Chairman, I beg to move an amendment to clause 7 section 22I:

"7	22I	Delete the words "to exercise" and substitute the words "for the purpose of the exercise of".
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Mr. Chairman, that is to clear up the point that it is not a public officer who will be exercising the functions of the Board as opposed to facilitating the Board in the exercise.

Mr. Chairman: That was the point made by Sen. Mahadeo?

Sen. Huggins: Yes, Mr. Chairman, but unfortunately she is not here today.

Question, on amendment, put and agreed to.

Sen. Mark: Mr. Chairman, having regard to the nature of this Board and its new responsibilities, seeing that it would not have the kind of independence that we have suggested, and that it has authority to make regulations with the approval of the Prime Minister we suggested the following amendment:

"22I(2)	Regulations made under subsection (1) shall be subject to an affirmative resolution of Parliament".
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The Parliament could be kept abreast of what is taking place and the kinds of regulations that they are seeking to impose. I think that we need to have some kind of responsibility as a Parliament in this regard. We are, therefore, proposing that the Minister consider this proposal very seriously. He did indicate that in the Act—

Sen. Huggins: I was not referring to that.

Sen. Mark: I do not think he should have a problem with that, Sir.

Sen. Huggins: Mr Chairman, I cannot agree with that. This is a province which the Prime Minister exercises even with respect to the public service and the conferring of duties on public servants. It is under the Police Service Commission Regulations, in fact, it is in the Constitution. I really see no need for bringing this to Parliament when it is a power the Prime Minister now exercises by virtue of the Constitution. It is just to confer certain responsibilities on public servants, insofar as the Board is concerned. I really do not see why the Parliament has to get involved in that.

This is a case where the Prime Minister makes regulations telling public servants that they are to carry out certain functions on behalf of the Appeal Board. It is the same function which the Prime Minister exercises with respect to public servants under the Public Service Commission and the Police Service Commission. Those are not required to come to Parliament. Somebody has to tell a public servant that he must do A, B and C. That is all this is about.

Question, on amendment, put and negatived.

Question put and agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Clauses 8 and 9 ordered to stand part of the Bill.

New Clause 6.

Sen. Rooks: Mr. Chairman, I beg to move that new clause 6 be amended as follows:

6 (new)

Section 17 of the Act is amended by inserting immediately after subsection (6), a new subsection to read as follows:

'An applicant for a Firearm User's Licence should pass a course of Safe Handling of Firearm by an approved training school before being granted a Firearm User's Licence.'

New clause 6 read the first time.

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

Question put and agreed to.

New Clause 6 added to the Bill.

Mr. Chairman: In the course of his winding up the Minister was making a case for inclusion of some of these details in the Regulations: the fact that we would have to define what is an approved training school and so on, and that it might be better suited for the Regulations rather than putting it into the parent Act.

Sen. Huggins: Mr. Chairman, I want to make the point, I think it is a very commendable suggestion, but I think that there would be extreme difficulty in dealing with it in this way. There are too many things that would have to be dealt with and I would really prefer to deal with it by way of the Regulations where the avenue is there for dealing with it.

Sen. Rooks: Including it in the Regulations would be quite as difficult, if not more difficult. One would have the worry that there are only two companies and one is not sure of what standards they are in, but surely, we can specify what standards we want. *[Interruption]* Why should it be a difficulty?

Sen. Huggins: Mr. Chairman, because somebody will have to determine these standards. I have difficulty saying that the TTRA must determine it. There is going to have to be a coming together of people to establish these things; to establish for the schools—as I said we have one public pistol range in Port of Spain, one in San Fernando that I know. There are difficulties that I would prefer to iron out, rather than put this in the legislation and then run into further difficulties. I have accepted it and I am giving my promise that I would bring this piece of legislation to Parliament and I would deal with it.

Sen. Rooks: Mr. Chairman, I would take the Minister's word on that.

Mr. Chairman: Are you withdrawing your amendment, Sen. Rooks?

Sen. Rooks: Yes, Mr. Chairman, I am withdrawing my amendment.

Amendment withdrawn.

Sen. Mark: Mr. Chairman, could the Minister say how soon he intends to bring this to the Parliament?

Sen. Huggins: I have a year and a half again in office, I would bring it sometime before that. *[Interruption]*

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

Senate resumed.

Bill reported, with amendment; read the third time and passed.

Adjournment

Tuesday May 09, 1995

ADJOURNMENT

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. Vice-President, I beg to move that the Senate do now adjourn to Tuesday, May 16, 1995 at 1.30 p.m.

I crave your indulgence to indicate that on that day we will be seeking to deal with, first of all, the amendment to the Free Zones Act and time permitting, the Motion dealing with Public Holidays.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.52 p.m.