

Leave of Absence

Tuesday, March 28, 2006

SENATE

Tuesday, March 28, 2006

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Madam President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Christine Sahadeo, Sen. The Hon. Joan Yuille-Williams and Sen. Angela Cropper who are out of the country.

SENATORS' APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from His Excellency the President, Prof. George Maxwell Richards:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., PhD, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MRS. JOAN HACKSHAW-MARSLIN

WHEREAS Senator Christine Sahadeo is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, JOAN HACKSHAW-MARSLIN, to be temporarily a member of the Senate, with effect from the 28th of March, 2006 and continuing during the absence from Trinidad and Tobago of the said Senator Christine Sahadeo.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 23rd day of March, 2006.”

Senators' Appointment
[MADAM PRESIDENT]

Tuesday, March 28, 2006

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., PhD, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MRS. MAGNA WILLIAMS-SMITH

WHEREAS Senator Joan Yuille-Williams is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, MAGNA WILLIAMS-SMITH, to be temporarily a member of the Senate, with effect from the 28th of March, 2006 and continuing during the absence from Trinidad and Tobago of the said Senator Joan Yuille-Williams.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 27th day of March, 2006.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., PhD, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MS. ALTHEA ROCKE

WHEREAS Senator Angela Cropper is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the

Senators' Appointment

Tuesday, March 28, 2006

Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ALTHEA ROCKE, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Angela Cropper.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 24th day of March, 2006."

OATH OF ALLEGIANCE

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

Joan Hackshaw-Marslin, Magna Williams-Smith, Althea Rocke.

CONSTITUTION (AMDT.) BILL

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

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

Question put and agreed to.

POLICE SERVICE BILL

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

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

Question put and agreed to.

POLICE COMPLAINTS AUTHORITY BILL

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

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

Question put and agreed to.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Chaguanas Borough Corporation for the year ended September 30, 2003. [*The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill)*]
2. Report of the Public Service Commission for the period January 01, 2004 to December 31, 2004. [*The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith)*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Couva/Tabaquite/Talparo Regional Corporation for the financial year ended September 30, 2000. [*Sen. The Hon. C. Enill*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Deposit Insurance Corporation for the year ended September 30, 2005. [*Sen. The Hon. C. Enill*]
5. The annual audited financial statements of the Petroleum Company of Trinidad and Tobago Limited for the year ended September 30, 2005. [*Sen. The Hon. C. Enill*]
6. The annual administration report of the Betting Levy Board for the period July 01, 2004 to June 30, 2005. [*Sen. The Hon. Dr. L. Saith*]

The Minister of Public Utilities (Hon. Penelope Beckles): Madam President, the Revised National Environmental Policy actually—

Sen. Mark: Madam President, on a point of order, may I seek clarification here? We have some matters before Item 11, which deals with Statements by Ministers.

Madam President: Senator, do you mind? Please sit.

Madam Minister, you have to lay the paper.

Hon. P. Beckles: Thank you very much, Madam President.

7. The Revised National Environmental Policy. [*The Minister of Public Utilities and the Environment (Hon. Pennelope Beckles)*]

Madam President: Hon. Minister, you can give your short statement now or you can do it under Statements by Ministers.

Hon. P. Beckles: I will ask your leave to do it under Statements by Ministers.

Madam President: Fair enough; let us continue.

ORAL ANSWERS TO QUESTIONS

Caribbean Court of Justice (Cases Pending)

44. Sen. Wade Mark asked the hon. Attorney General:

- A. Could the Attorney General indicate to the Senate precisely how many matters/cases of appeal are pending before the Caribbean Court of Justice?
- B. Could the Attorney General also provide a brief description of the nature of the cases that are pending?

The Attorney General (Sen. The Hon. John Jeremie): Madam President, as I indicated on the last occasion this question cannot be answered because it relates to a matter now pending before the High Court of Justice of Trinidad and Tobago, namely: High Court Action CV 2006—00519 between Dr. Jennifer Kernahan, Senator, and the Attorney General of Trinidad and Tobago, that action having been filed at the Sub-Registry at the High Court of Justice in San Fernando on March 02, 2006, it is therefore in breach of Standing Order 17(1)(g)(vi) which states as follows:

“A question shall not be asked—
about any matter pending before any Court of Justice, or which reflects on the Court of Justice;”

Madam President: Mr. Attorney General, I will have to accept your statement. Let us move on, Sen. Mark.

**Caribbean Court of Justice
(Breakdown of Costs)**

45. Sen. Wade Mark asked the hon. Attorney General:

Could the Attorney General provide the Senate with a detailed breakdown of the costs incurred as at December 20, 2005 in respect of the day-to-day functioning of the Caribbean Court of Justice with specific reference to the following:

- (i) the total cost incurred in respect of salaries?
- (ii) the total cost incurred in respect of fringe benefits, perquisites and any other benefits?
- (iii) the total amount of the actual salaries received by the President of the Court?
- (iv) the total amount of the fringe benefits, perquisites and other benefits received by the President of the Court?
- (v) the actual salaries, fringe benefits, perquisites and other benefits received by each judge?

**Caribbean Court of Justice
(Pension and Gratuity)**

46. Sen. Wade Mark asked the hon. Attorney General:

Could the Attorney General inform the Senate what is the total cost to the Caribbean Court of Justice in meeting its obligations for pension and gratuity commitments/payments from its inception to December 20, 2005?

Sen. Mark: Madam President, would it mean that questions 45 and 46 would follow the same fate?

Madam President: Are those questions related to the same matter?

The Attorney General (Sen. The Hon. John Jeremie): Madam President, the questions are all related to the High Court Action which was filed by the Senator seeking an answer to questions which she could have received here alternatively, but cannot now receive here and in the course of the proceedings in the High Court.

The answer to that question is yes, but I will be pleased to repeat the answer to the question if Sen. Mark—

Madam President: I want to ask a question, if you do not mind, Mr. Attorney General. I just want to be clear in my mind. Are you saying therefore that “the breakdown of the costs incurred up to December 28 in respect of the functioning of the Court of Justice” is not available because of that action?

Sen. The Hon. J. Jeremie: Madam President, I am saying that there is a constitutional motion before the court in which my colleague, Sen. Dr. Jennifer Kernahan is on affidavit to the effect that the court is costing certain amounts of money and she is deposing to this fact, and that the questions before—I am happy to repeat the answers as I provided then.

Madam President: Therefore the court action if relating to all these matters here; the costs, the salaries and everything as far as the—

Sen. The Hon. J. Jeremie: The court action relates to the constitutionality of the Caribbean Court of Justice, but in the course of that action, allegations are made as to the spending by the Government on this court, and those allegations must be answered and I doubt this is the court in which we should answer those questions.

Sen. Mark: Madam President, I would just like to seek your guidance. As you are aware these questions were filed long before the court matter.

Madam President: Sen. Mark, I have tried to understand what the Attorney General has said and I accept his explanation. I understand what you have said when you said that they were filed prior. The fact remains that now the whole matter has changed because of the court matter so therefore we just have to move on.

Sen. The Hon. J. Jeremie: Madam President, an answer to this question had in fact been prepared before the court action was filed and that answer was different from the one which I have just read. If I could just ask your leave to point to what has become an unfortunate practice in this Senate, that is to say, that questions are being asked about matters in respect of which—

Sen. Mark: Madam President, on a point of order, I think the Attorney General is abusing the process. I am being calm today. I do not want him to aggravate the situation.

Madam President: Sen. Mark, please sit, I know you—

Sen. Mark: This is an abuse of the process.

Madam President: Senator!

Sen. Mark: He is coming now to give an explanation!

Madam President: Sen. Mark, please! [*Interruption*] It is okay, Attorney General, I have accepted your explanation for these matters here today and I think Sen. Mark has also accepted it so we will move on. Thank you very much.

Sen. Mark: I have not accepted it.

Madam President: Let us move on.

WRITTEN ANSWER TO QUESTION

The following question was asked by Sen. Wade Mark

**National Lotteries Control Board
(Details of Legal Fees)**

19. (a) Could the hon. Prime Minister and Minister of Finance provide to the Senate the amount of legal fees paid to attorneys-at-law as well as legal firms in respect of all legal written matters involving the National Lotteries Control Board for the period January, 2002 to October, 2005?
- (b) Could the Minister further provide the names of the attorneys-at-law and the various legal firms as well as provide details on the fees paid in the following areas:
- (i) Fees on brief for each attorney-at-law and legal firm?
 - (ii) Appearance fees for each attorney-at-law as well as legal firm?
 - (iii) Instructing fees for each attorney-at-law or legal firm?

Vide end of sitting for written reply.

REVISED NATIONAL ENVIRONMENTAL POLICY

The Minister of Public Utilities and the Environment (Hon. Penelope Beckles): Madam President, I have been authorized by the Cabinet of the Republic of Trinidad and Tobago to make the following statement.

Environmental management is a key responsibility of the Ministry of Public Utilities and the Environment; protecting and conserving the natural resources upon which we depend for clean water, food, fresh air and economic growth is critical to the country's future development and our quality of life. The Ministry of Public Utilities and the Environment, working in collaboration with key partners such as the Environmental Management Authority, is responsible for and committed to maintaining the environmental integrity of Trinidad and Tobago, recognizing its

importance to the overall socio-economic well-being of citizens, as well as its significance in the attainment of developed country status by the year 2020.

Indeed, the importance of the environmental balance and ecosystem stability for the social, cultural and economic growth of the nation makes it imperative that measures are put in place for proper environmental management and sustainable use of these precious resources. The main governing policy which allows us to address these issues is the National Environmental Policy which was approved by Parliament some seven years ago in 1998.

However, since that time, the country and the society have evolved which has implications for the way in which the environment is managed. For example, the country has gone through an accelerated period of industrialization, especially in the energy sector, to the extent that Trinidad and Tobago is now the largest supplier of Liquefied Natural Gas (LNG) to the United States and the number one exporter of ammonia in the world. There have also been major developments in the housing sector, both private and state initiated projects as well as significant expansion and upgrading of infrastructure.

To ensure the environmental integrity is maintained, and in this regard, that the policy remains relevant, given the rapid evolution of our society, the Government of Trinidad and Tobago determined that it was necessary to review and revise the 1998 National Environmental Policy. Indeed, in their wisdom, the architects of the Environmental Management Act in section 18(5) provided for the policy to be revised from time to time.

In the past year, the Environmental Management Authority has spearheaded a comprehensive process to revise the national policy which included public consultations at five locations across Trinidad and Tobago and discussions with broad cross sections of stakeholders.

The Revised National Environmental Policy, which has been laid before this honourable Senate today, focuses on sustainable management of the country's environmental assets, seeking a balance between conservation and economic development, rather than the narrower concept of environmental protection, which tends to bring into conflict the notions of sustainability of the environment and economic development.

The policy is guided by:

- (1) Respect for the community of life.
- (2) Keeping within the country's carrying capacity.

- (3) Empowering communities to care for their own environments.
- (4) The polluter pay principle.
- (5) The precautionary principle.

Towards this end, the key objectives of the revised policy are as follows:

- (i) To prevent, reduce or where possible recycle all forms of pollution to ensure adequate protection of the environment and consequently the health and well-being of humans.
- (ii) To conserve the vitality and diversity of the natural environment through the conservation of ecological systems and the biodiversity within.
- (iii) To develop within the carry capacity of the country, through national physical development planning, the sustainable use of renewable resources and the conservation of non-renewable resources.
- (iv) To encourage positive attitudes and practices among citizens with a view to reducing the polluting practices of the public.
- (v) To ensure that all industry install a certified environmental management system.
- (vi) To empower stakeholders, including communities to care for their own environments by providing the opportunity to share in managing their local resources and the right to participate in decision-making.

Madam President, the Revised National Environmental Policy provides a rational, practical and comprehensive framework for environmental management in Trinidad and Tobago. It is broad-based and therefore applies to all sectors and areas of activity, giving general guidelines for the conceptualization and development of plans and programmes for the management of the environment. In this regard, the policy as presented deals with the following:

- protection of natural resources;
- pollution, hazardous and toxic substances;
- assessment of impacts;
- public information and environmental education;
- financial and economic instruments; and
- policy implementation.

The policy also provides the necessary guidance for enhancing the legislative framework for the protection of the environment through the development of subsidiary legislation under the Environmental Management Authority Act. Towards this end, the Environmental Management Authority has drafted and/or re-drafted the following pieces of legislation in accordance with the Revised National Environmental Policy:

- The Beverage Container Bill
- The Water Pollution Rules; and
- The Air Pollution Rules

The Beverage Container Bill is intended to encourage the reuse and/or recycling of beverage containers and discourage the wasteful, unsanitary and environmentally degrading practice of disposing of items into the environment.

The Water Pollution Rules which will ensure that the fresh water and marine resources of Trinidad and Tobago are protected from pollution, have been approved by Cabinet and will be laid before this honourable Senate shortly.

The Air Pollution Rules are intended to protect the public from the adverse effects of air pollution. The rules have been significantly modified from a previous draft and, therefore, have been subjected to another round of public comment which was completed on or before November, 2005. The Environmental Management Authority is presently finalizing the rules to take into account the comments that have been received and it is expected that these rules would be presented to Parliament in 2006. The rules will control air pollution through a system of permits based on the polluter pays principle—a basic tenet of the revised policy.

The laying of the Revised National Environmental Policy before this honourable Senate today represents a critical step in transforming the legislative framework for the protection of the environment in Trinidad and Tobago, and also for achieving our 2020 vision where the people of this country treasure the environment and voluntarily use its resources wisely to ensure its protection, conservation and restoration, so as to equitably meet the needs of present and future generations and enhance the quality of life.

Thank you, Madam President. [*Desk thumping*]

FINANCIAL INSTITUTIONS (AMDT.) BILL

Bill to amend the Financial Institutions Act, 1993 [*The Minister in the Ministry of Finance*]; read the first time.

CONSTITUTION (AMDT.) BILL

The Minister of National Security (Sen. The Hon. Martin Joseph): Madam President, I beg to move,

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

In moving the second reading of this Bill, I seek leave of the Senate to debate along with this Bill, Bills No. 2 and No. 3 on the Supplemental Order Paper as they are related. I also seek leave of the Senate to stick as closely to prepared text as possible because of the nature of the Bills.

Leave granted.

2.00 p.m.

Sen. The Hon. M. Joseph: Thank you again, Madam President, Hon. Senators. On June 23rd, 2004 the Government introduced these three Bills: the Constitution (Amdt.) Bill, the Police Service Bill and the Police Complaints Authority Bill in the other place, as part of a national plan to address the widespread crime problem which is plaguing this country from coast to coast. Essentially, the Bill seeks to reform the police service and the Government is of the strong view that this reform process is crucial to creating a modern police service.

A modernized police force is a key instrument in the fight against crime. It was so in June 2004 and the need to achieve this reform is even more so today. From that time to now, the Bills have been amended mainly as a result of the rounds of talks between the Government and the Members of the Opposition on the issue of crime.

Madam President, the reform of the management of the police service is crucial to the success of the modernization process. Both the Government and the Opposition recognize that the police service cannot be properly managed under the present system and in particular under the constraints imposed by the Police Service Commission. Therefore, the Commissioner of Police must be given full authority to manage the service, but should be held accountable for his performance. It was, however, agreed by both sides that this accountability would be to the Police Service Commission which in turn would be accountable to the Parliament. Today, because of the consensus reached between the Government and the Opposition, we are on the threshold of national progress in the fight against crime and the return to a safer society.

Indeed, between the period February to December 2005, with the continued support of our friends on the other side, the Government was able to introduce a number of legislative measures in a bid to tackle the crime wave. These seven measures included the Administration of Justice (Miscellaneous Provisions) Act, 2005; the Offences Against the Person (Amdt.) (Harassment) Act, 2005; the Summary Courts (Amdt.) Act, 2005; the Criminal Procedure (Amdt.) Act, 2005; the Corporal Punishment (Offenders Over Eighteen) (Amdt.) Act, 2005; the Indictable Offences (Preliminary Enquiry) (Amdt.) Act, 2005; the Anti-Terrorism Act, 2005 and the Bail (Amdt.) Act, 2005.

These measures were mainly intended to reform the criminal justice system by addressing crucial issues such as evidence, delay, sentencing, white collar crime, prosecution, kidnapping and bail.

With the support of our friends on the other side, the fight against crime on the legislative front has become a reality and indeed is already bearing fruits as we see in relation to the issue of bail and kidnappings. On the last occasion when these Bills were introduced in the Parliament, the package was intended to construct the foundation for a modern police service. The then Constitution (Amdt.) Bill, 2004 sought to abolish the Police Service Commission and replace it with an equally independent body, the Police Management Authority.

The members of the authority were to be appointed by the President on the advice of the Prime Minister and the Leader of the Opposition. This authority was to have the power to appoint, remove, discipline and promote the top four ranks of officers in the First Division of the police service. The authority could not appoint the Commissioner or his Deputy if the Prime Minister objected to the appointment of the person as such. The commissioner was to have the power to manage and control the human and financial resources of the police service, hence he was to be the Accounting Officer for the purpose of the relevant financial legislation and not the Permanent Secretary of the Ministry of National Security. The Public Service Appeal Board was to continue as the appellate body against decisions of the authority and the commissioner in disciplinary matters.

In relation to the then Police Service Bill, 2004 the intent was to provide the legal and administrative structures to ensure a modern police service. That Bill sought to introduce new management structures in the service in order to deal with modern realities. For example, to deal with cyber crime, transnational crimes, white collar crime and so forth. To address the issue of poorly trained or selected persons, the Bill provided for appointments of persons entering the force as Trainees and not as Constables. The Promotion Advisory Board was re-introduced

Constitution (Amdt.) Bill
[SEN. THE HON. M. JOESPH]

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to assist the commission in promoting officers. A large part of the existing provisions of the Police Service Act, Chap. 15:01 was revised and consolidated. Provision was also made to allow for the commission to appoint police officers and civilian staff on contract.

Finally, in relation to the Police Complaints Authority Bill, 2004, the intent was to provide for the establishment of an independent body with power to investigate criminal offences involving police officers, police corruption, serious police misconduct and the conduct of any person connected with such matters. The authority was to have the power to only investigate the complaint and make a report to the person or body responsible for prosecution. The authority was to be given the power to appoint on contract persons with specialist skills to assist it in the performance of its functions.

Madam President, I would not spend any great time on recounting the historic journey that has brought us to this point in the fight against crime. I do so bearing in mind the history of this matter. I wish merely to state that during August of 1999 on the initiative of the then leader of the Opposition, a bipartisan team headed by the then Prime Minister and the Leader of the Opposition, was established to work out measures including any legislative action that may be required to provide solutions to the problems besetting the police service.

A technical team chaired by the former President of the Republic of Trinidad and Tobago, Sir Ellis Clarke, was then mandated to enquire into the issues and to report to the bipartisan team. As a result of the report of the technical team, the three Bills were prepared. The details of this important development in our nation's history is well recorded and I say no more.

Madam President, as I mentioned earlier, the consensus between the Government and our friends on the other side has led the nation on a clear path on this historic journey in tackling the crime wave. In his address on November 18, 2005 in the other place, the hon. Prime Minister listed a number of points which were agreed on both sides in relation to reforming the police service. I would take the opportunity to recount for the benefit of hon. Senators, these major points of agreement. They were:

1. The Police Service Commission will continue to be the body to oversee the administration of the police service.
2. The method and criteria for the appointment and removal of members of the Police Service Commission, the Commissioner of Police and the Deputy Commissioners of Police will be changed and a new system legislated.

3. The Commissioner of Police must be given the authority to adequately manage the police service within the context of the new Police Service Commission's framework.
4. The police service should be managed based on the principles of equality and meritocracy;
5. The Commissioner of Police must be accountable for the performance of his duties to the Police Service Commission and the Commission would be accountable to the Parliament.

Madam President, to achieve these goals the package of Bills which was introduced in 2004 was accordingly amended. The most significant changes are seen in the Constitution (Amdt.) Bill, 2006. There would be no Police Management Authority. The Police Service Commission will continue to be the body to oversee the administration of the police service. However, the Commission, as we know it today, will cease to exist and it will be clothed with a new identity. Significant changes have been agreed upon by the Government and the Opposition in relation to the manner of appointing members of the Commission and the exercise of its function. Nevertheless, the constitutional protection which it enjoys such as independence and limited security of tenure will continue to apply.

The proposed amendment to the Constitution will also confer on the Commissioner of Police the power to appoint officers in the Second Division, and officers in the First Division up to the rank of Assistant Commissioner of Police. In addition, the Commissioner will have the power to transfer, remove, promote and exercise disciplinary control over the officers he can appoint. By way of draft constitutional orders, which will be subject to negative resolution in the other place, the qualification and selection process for the post of Commissioner and Deputy Commissioner of Police will be legislated.

Another major change is that the Public Service Appeal Board which is created under section 132 of the Constitution will no longer be the appellate body for the police service in relation to an appeal by an officer against a decision made in disciplinary proceedings. Such appeals by all officers, except the Commissioner and Deputy-Commissioner of Police, would now be heard and determined by the Police Service Commission. If the officer is aggrieved by the decision of the Police Service Commission he can file an application for judicial review.

As a result of a compromise reached between the Government and the Opposition in the other place in relation to the Police Service Bill, 2006, the system of promotion will be amended. This is a major change to the Bill as introduced in 2004. Other changes were also made to this Bill and I shall detail these later in my presentation.

The Promotion Advisory Board would make recommendations to the Commissioner for appointment on promotion for the ranks of the Second Division. Promotion in the First Division will be based on the results of a new body to be established, the assessment centre. The details of the assessment centre will be provided for in the regulations. A minor but very important change was made to the long title of the Bill to provide that the principles of equity and meritocracy shall apply to the police service at all times.

The system of discipline aimed at ensuring swift effective action will remain unchanged. If discipline is to be effective it must be both the deterrent and rehabilitative concept, prompt in its execution and fair in its application. In order to ensure such good governance, discipline must be exercised and appropriate corrective measures applied at every supervisory level and supervisors must be held accountable for the conduct of their charges.

In relation to the Police Complaints Authority Bill, 2006, the proposal to create an external independent body with, inter alia, the power to investigate corruption and serious police misconduct, but without prosecution powers will remain unchanged. Also, the proposed new powers of the Police Complaints Authority would continue to apply. It is to be noted that no institutionalized mechanism exists within the service to deal specifically with internal corruption. Further, one only has to look at the difficulties experienced by the Police Complaints Authority with the Police Complaints Division as presently constituted and functioning. These difficulties are described in the authority's annual reports to Parliament.

The principal functions of the Police Complaints Authority would be the prevention, detection and investigation of such behaviour. It would have the power to conduct investigations on its own initiative or in response to complaints, reports or references made to it, plus the full range of powers necessary to properly fulfil its mandate which would focus upon those that corrupt as well as those corrupted. The authority with new systems for appointment, operation and financing, would be an independent body and it would be reported to Parliament.

Madam President, the Government is of the view, and I know this view is shared by my friends on the other side, that a new police complaints authority together with new management structures, improved entry requirements containing continuous training in keeping with the development of a modern police service and greater promotional opportunities on the basis of merit, and greater accountability at all levels, will go a long way in addressing the problems besetting the Trinidad and Tobago Police Service.

Madam President, I now turn specifically and in greater detail to the three proposed Bills: the Constitution (Amdt.) Bill, 2006, the Police Service Bill, 2006 and the Police Complaints Authority Bill, 2006.

The Constitution (Amdt.) Bill, 2006. Madam President, it is important to first understand how the present management of the police service is constituted under the Constitution.

Section 122 of the Constitution provides for the establishment of an independent Police Service Commission which consists of a chairman and four other members. They are all appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

Section 123 then vests in this Commission specific powers in relation to the police service. These powers are the powers to appoint persons who hold or act in an office in the service, promote, transfer, confirm appointments, dismissals, discipline and enforce standards of conduct.

Section 126 protects the security of tenure of the members of the Commission and especially so against political interference because the grounds of removal are limited and specific. Thus, the Commission can be seen as the key managerial authority of the police service.

One of the major points of agreement between the Government and the Opposition was the reform of the Commission. The amendment seeks to create a detailed process to allow for the appointment of members of the Commission. As a result of the compromise reached between the Government and the Opposition, the other place was given the power to confirm the appointment of members of the Commission. It was agreed that the process should be expedited and, therefore, one set of hearings by elected members would be appropriate.

Madam President, I think it is important for me to restate this. One of the major points of agreement between the Government and the Opposition was the reform of the Commission. The amendment seeks to create a detailed process to allow for the appointment of members of the Commission. As a result of the compromise reached between the Government and the Opposition, the other place was given the power to confirm the appointment of members of the Commission. It was agreed that the process should be expedited and, therefore, one set of hearings by elected members would be appropriate. The membership of the Commission, under section 122(1) of the Constitution, would continue to be the chairman and four

other members. First, members would be nominated for appointment to the Commission by the President after consultation with the Prime Minister and the Leader of the Opposition. However, in order to be nominated a person must be qualified and experienced in the disciplines of law, finance, sociology or management.

Secondly, the President would issue a notification containing the names of the persons nominated. By way of amendment in the other place it was agreed that individual notifications would be issued by the President to deal with the case where not all the names are agreed upon by members.

Thirdly, this notification would be subject to the affirmative resolution of the House of Representatives.

Finally, only after the House has affirmed the notification can the President make the appointment. If the notification is not affirmed, then the President would have to start the process all over again. After the members are appointed the President, in his own discretion, would appoint a member as chairman of the Commission. These changes are seen in clause 4 of the Bill which seeks significantly to amend section 122 of the Constitution.

Madam President, the Government and the Opposition are in agreement that the process of appointment of members of the Police Service Commission is of paramount importance because the Members of the Commission must be persons of impeccable character, and who are qualified and experienced so as to ensure that the police service is effectively and efficiently managed.

Another major change is seen in clause 4. The members of the Police Service Commission would continue to hold office in accordance with section 126 of the Constitution except subsections (4) and (5). Section 126 of the Constitution provides general provision such as tenure and qualifications which are applicable to all the service commissions.

Section 126(4) and (5) of the Constitution provides that a member of a service commission can only be removed by the President, acting in his discretion in one of three grounds, that is, the inability to perform the functions of his office due to mental or physical incapacity or for misbehaviour. Furthermore, the removal cannot be done except in accordance with the provisions of section 126. The reason for the non-application of section 126(4) and (5) to the Police Service Commission is that the Bill seeks to provide a new section as seen in clause 5, to deal with the grounds of removal of members of the Commission.

I wish to stress that the Police Service Commission would continue to be an independent body like any other service commission. The members would be appointed by the President, subject of parliamentary scrutiny. As is the case of the members of other service commissions, the members of the Police Service Commission would be appointed not by the Prime Minister, but by the President. Then section 126(3) protects the tenure of a member from the political directorate by stating that he holds office for a period of five years or such shorter period not being less than three years as specified at the time that he or she is appointed. Hence, the security of tenure of members is protected against the whims and fancies of the political directorate of the day.

I now turn to clause 5 of the Constitution (Amdt.) Bill, which seeks to provide a new section, 122A to deal with the removal of members of the Police Service Commission. The proposal is for a member to be removed by the President on specified grounds after consultation with the Prime Minister and the Leader of the Opposition. These grounds include criminal conviction, physical or mental infirmity, absence from duty, misbehaviour in office and incompetence.

In the exercise of this power of removal, the President can examine any report of a joint select committee under sections 66A(1)(E) and 66B of the Constitution. Under section 66A(1) a joint select committee can enquire into and report inter alia, on service commissions to both Houses of Parliament in respect of the commission's administration, how they exercise their powers and functions and any criteria adopted by them in the exercise of their powers and functions.

Whether or not such an enquiry is conducted, each service commission is required to report annually to the President in relation to its administration, how it exercises its powers and functions, and any criteria adopted by it in the exercise of its powers and functions. Clearly, either report will provide the President with detailed information about the internal workings of a commission including the Police Service Commission, and would allow the President to be better informed whether the Commission performed effectively and efficiently. The intent is to ensure a transparent process of removal in the case of a non-performing member of the Commission without harm to the police service.

It is to be noted that the Police Service Commission will continue to be accountable to the Parliament by virtue of section, 66A(1)(ii)E and 66B of the Constitution. There is no need to further amend the Constitution to make the Commission subject to parliamentary scrutiny. Parliament already has the power through its joint select committee system to call upon the Commission to account for its performance and secondly, as applicable to the government ministries,

municipal corporations, statutory authorities and state enterprises, the Commission will also have to submit a report to the President before October 01 each year on the exercise of its functions and so forth.

Within 60 days of receiving this report the President is required to lay the report in Parliament, thus parliamentary scrutiny is achieved.

Clause 6 of the Bill seeks to repeal and replace section 123 which provides the powers of the Commission.

Under clause 6 in the proposed section 123(1) the Police Service Commission would be vested with powers to appoint, promote, discipline, remove and monitor the performance of the Commissioner and Deputy Commissioners of Police. It is to be noted that the Commission is not given the power of the transfer. That power is to be vested in the Commissioner of Police so that he can better manage the service. The qualification and selection process for the rank of Commissioner and Deputy Commissioners of Police would be prescribed by orders of the President. In the draft orders, it is proposed that a candidate for these two ranks must have a degree and at least 15 years of experience, together with certain personal attributes such as leadership, management and communication skills, commitment to the service and integrity. A criminal conviction or bankruptcy will be a bar to appointment. In the case of a serving officer, even though he does not have a degree, he may be appointed provided he has 20 years of service and the said personal attributes.

In relation to the selection process, the draft order proposes that the Commission would advertise the vacancy locally, regionally and internationally, and applications would be submitted to the Commission.

To assist the Commission, the President would appoint three selection groups comprising of five public officers from the Ministry of National Security, five police professionals from the Commonwealth, and seven other persons representing the various social interests, including law, religion and business. The selection groups would then each select the eight most suitable candidates and forward their list to the Commission. The Commission will then select a list of ten candidates from the 24 persons recommended. The names of these 10 candidates will then be advertised locally, regionally and internationally to allow for public scrutiny. A firm would be contracted by the Ministry of National Security to assess and interview the 10 candidates. The top five candidates would then be interviewed by the selection groups and each group would submit its recommendations to the Police Service Commission. The Commission would then review the list and select the top three candidates and interview them. The best candidate—or candidates as the case may be—is then selected.

In keeping with the agreement with the Opposition, the draft order seeks to provide a transferring process to govern the system of appointment so as to ensure that the best persons are appointed. This is a system which seeks to operate on the principles of equity, meritocracy, transparency and accountability. It is to be noted that after this screening process a person will not be immediately appointed as the Commissioner or a Deputy Commissioner of Police. I return now to the Constitution (Amdt.) Bill in clause 6 in the proposed section 123(3).

After the Commission has selected the candidate or candidates for appointment it must submit the names or list of names to the President for the approval of the House of Representatives. The President issues a notification which is subject to affirmative resolution of the House of Representatives. Perhaps, on this occasion, I should state for the record that the expression, "subject to affirmative resolution of the House of Representatives" means that the statutory instrument would not come into operation until it is affirmed by a resolution of this honourable House. Hence, a person cannot be appointed the Commissioner or a Deputy Commissioner of Police unless and until the notification is affirmed by the House of Representatives. The Government and the Opposition agreed in the other place that the other place would exercise the power to confirm the appointment of the Commissioner and Deputy Commissioner of Police in light of the Prime Minister giving up his veto in this process.

2.30 p.m.

In order to ensure that the Police Service Commission can really monitor the performance of the Commissioner of Police, who is given the expressed power to manage and control the police service, the commissioner must submit a management report every six months to the commission. In addition, the commission can request a special management report at any time. In this way, the commissioner would be accountable for the performance of his duties to the Police Service Commission, which itself is accountable to the Parliament through the Joint Select Committee system.

Madam President, just as the criteria and process for the appointment of the Commissioner and Deputy Commissioners of Police were recognized as being very important in the reform process, so too the method and criteria for their removal. It was agreed that a transparent process should be created to provide for the removal of a non-performing Commissioner or Deputy Commissioners of police without detriment to the police service; hence the proposed section 123(8) and (9) seeks to address these concerns.

The specified grounds of removal include:

- absence from duty for seven consecutive days without leave;
- breach of contract where he or she is appointed on contract;
- reported inefficiency;
- retirement in the public interest;
- retirement on medical grounds; or
- dismissal because of disciplinary proceedings.

The removal procedure would be prescribed by the commission pursuant to its regulatory power under section 129.

Another major amendment to the Constitution is the vesting in the Commissioner of Police of the authority to manage the police service more effectively by giving him certain constitutional powers. Under clause 7 of the Bill, in the proposed section 123A, the commissioner is given the expressed power to manage the human, financial and material resources of the service in an efficient and effective manner. He is also given the power to appoint and promote all police officers, except a Deputy Commissioner of Police, to remove such officers from office, to exercise disciplinary control over such officers in the performance of their duties and to transfer any officer. Finally, the commissioner is also given the power to delegate his powers by special or general order. These changes are intended to ensure that he functions effectively as the new manager of the police service.

In light of the changes proposed to the jurisdiction of the Police Service Commission, which I have mentioned earlier, clause 8 now seeks to make a consequential amendment to section 127(1) by removing the power of delegation which the commission currently enjoys, but which would become obsolete because its powers would only be in relation to the top two ranks of the service when the Bill becomes law.

Section 129 of the Constitution as amended in 2000 empowers the service commission to dismiss or otherwise punish a public officer without the institution of any disciplinary procedures when the officer is convicted of a criminal offence and has exhausted his appellate remedies. It is to be noted that by section 129(7) of the Constitution, this power is subject to the right of the officer to show cause, that is a right to be heard, why he should not be dismissed. This Bill, in clause 9, proposes to extend this power to the Commissioner of Police in relation to a police officer, except a Deputy Commissioner of Police, who can only be dismissed by the Police Service Commission.

Clause 10 of the Bill seeks to amend section 134 of the Constitution to provide that the power “to withhold, reduce in amount or suspend any benefits to which this section applies”, that is section 134, shall not be exercised in relation to a police officer, who at the time he left the police service was subject to the jurisdiction of the Commissioner of Police, without the approval of the commissioner.

To deal with the changes that will occur when the Bill becomes law, clause 11 makes a transitional and saving provision. The present members of the Police Service Commission will remain in office for not longer than six months after the Act comes into force and all matters pending before the existing commission or any person or authority to whom the commission had delegated a matter shall, from the said six months, be continued by the new commission under this Act or the said person or authority.

I now move to the specifics of the Police Service Bill, 2006. The enactment of the new Police Service Act is also crucial to the modernization of the police service. The Police Service Bill, 2006, which requires a simple majority vote, seeks to repeal and replace the Police Service Act, Chap. 15:01. This Bill seeks to provide the legal structure to ensure a modern police service by amending, revising and consolidating the law relating to the police service.

Hence, in summary, this Bill, which is divided into nine parts and contains 80 clauses will provide for the establishment and structure of the police service; the appointment, promotion, transfer, dismissal and discipline of police officers; the role of the Personnel Department in relation to the police service; the establishment of Police Service Associations; the functions and duties of officers and numerous other general matters.

Hon. Senators would know that some of the matters that I have just mentioned are not new. They already exist under the Police Service Act. The Bill can therefore be seen in part as a revision and consolidation of the existing Act, keeping certain matters and proposing new ones.

I shall take the opportunity now to mention briefly some of the matters revised and kept from the Act. The Bill does not interfere with the existing position that increments are to be paid annually. See clause 9.

The role of the Personnel Department in relation to the police service under Part VI of the Bill remains unchanged. Part VII deals with the general functions and obligations of police officers, including such matters as voting, political activities, public statements by officers, powers of arrest, entering the service by fraud, et cetera. Most of these matters remain unchanged from the Act.

The Award Fund as provided for under section 54 and the Award Board under the Act remains unchanged in the Bill. See clauses 65 and 66. But, Madam President, the Bill does seek to introduce new matters. I shall now highlight some of the major changes proposed by the Bill.

The Bill has been amended over the years as a result of public comments, inputs from the police service and other stakeholders, the technical team, the Ministry of National Security and recently the recommendations of the Opposition. The Bill before us today contains two major changes in comparison to the Bill that was laid in the House in June 2004.

The first change is that the Commissioner of Police would not be given the power to manage the finances of the police service. The Permanent Secretary of the Ministry of National Security will continue to be the Accounting Officer for the purposes of the Exchequer and Audit Act, Chap. 60:01. The second change deals with the issue of promotion, which I shall address at a later stage.

The Bill seeks to introduce new management structures in the police service in order to deal with modern realities. For example, a lot of the powers vested in the Minister of National Security and the Permanent Secretary under the Police Service Act are now to be given to the commissioner, who is to be the administrative manager of the service. It is recognized today that the existing structure of the service is incapable of effectively dealing with numerous matters, for example, technological crimes, drug trafficking and money laundering, which themselves have become more complex and transnational in nature.

The O'Dowd Report, 1991 noted that modernization of the service has been inhibited by excessive bureaucracy, inefficient and outdated systems and procedures and undue concern over issues such as nepotism. Another innovation is to be found under Part III of the Bill, which makes provision for the appointment of trainees, who must satisfy certain requirements for appointment and successfully complete a course of training as a trainee before a commission can appoint them as police constables.

These requirements include attaining the minimum educational entry requirement of five O levels or CXC equivalent; being assessed for suitability, positively vetted, fingerprinted and traced, medically examined, including drug test and polygraph, before being considered for recruitment as a trainee.

This system is intended to deal with the issue of improperly trained or equipped officers. The commissioner is entitled to dismiss summarily any trainee whom he feels is an unsuitable candidate to be an officer. Hopefully, this proposed change

by the technical team would help to prevent the so-called bad apples from spoiling the whole apple barrel; hence a person choosing to enter the service would no longer be directly appointed as a constable, but would first have to undergo a probationary period as a trainee and, should he be appointed as a constable, he would also be subject to a probationary period of two years.

Another new matter addressed by the Bill is the inclusion of a cohabitant or common-law wife, subject to a five-year qualification period, on equal footing as the married spouse. Over the years, Madam President, legislation worldwide in civil societies has changed the status of the illegitimate and the adopted child and the common-law wife in relation to inheritance, equality of treatment before the law, et cetera. Legislation in this country has followed that trend from as long ago as 1981 when we introduced the Status of Children Act, No. 17 of 1981 and now cited as Chap. 46:07.

Within recent times we have seen the introduction of the Adoption of Children Act, No. 67 of 2000 and the Distribution of Estates Act, No. 28 of 2000, along similar lines; hence the inclusion of the common-law wife in this Bill is in keeping with modern legal changes. After all, the law must strive to keep pace with social development and, of course, the law can also be used as a tool for social engineering.

When the Commissioner of Police promotes an officer in the First Division, he must take into account the results of the Assessment Centre in that regard. The details of the Assessment Centre will be prescribed in the regulations to be made under the Act. When the commissioner promotes an officer in the Second Division, the commissioner must take into account the recommendations of the Promotion Advisory Board. See clause 16.

The Bill by clause 17 reintroduces the Promotion Advisory Board and in clause 20 sets out the criteria for promotion. Clauses 18 and 19 set out the general functions and procedures respectively of the board. An officer on first appointment or who is promoted must serve a prescribed period of probation—see clause 21 of the Bill—that is two years, but in the later case, a six-month period can be extended by the commissioner for a further period of six months. Both the Police Service Commission and the Commissioner of Police are given the power to appoint any person as an officer on contract for a specified period and purpose. The commissioner can also appoint administrative staff on contract.

Part V of the Bill, which deals with discipline, mandates the commissioner to establish in every division and branch of the police service a standing Disciplinary Tribunal consisting of one or more officers not below the rank of Assistant Superintendent to conduct disciplinary proceedings.

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Generally, Madam President, the Bill also contains proposals to increase the penalties for most of the offences under the Bill to reflect modern reality and to bring this area of the law into sync with the existing criminal legislation. It would be unfair to impose very light penalties for one category of offenders and then impose stringent penalties in other cases. Notwithstanding that, we appreciate in each case that the penalty must fit the crime on its particular facts and the rule of law demands that equality and fairness should also govern our legislative policy decisions. We must remember that the existing penalties came into force in August 1966. That is over 39 years ago. Surely the law must move with the times or else it would soon become a scarecrow which everyone would soon ignore.

Madam President, for the benefit of hon. Senators, I shall take the opportunity to highlight some of these penalty changes. For example, the penalty for serious offences under section 38 of the Police Service Act is being amended. The penalty of three years under section 38(1) of the Act for offences such as sedition, mutiny, rebellion, et cetera, is now increased to 10 years by clause 53(1) of the Bill. The penalty of \$750 and six months under section 38(2) of the Act for an officer who assaults a judicial officer or a senior police officer, uses unnecessary violence to a prisoner or wilfully allows a prisoner to escape is now increased to \$30,000 and five years by clause 53(2) of the Bill.

Also, the penalty of \$150 or three months for failing to return articles supplied to a police officer for public use is now changed to \$10,000 and two years by clause 55(2) of the Bill. Finally, the penalty of \$400 or three months for improper possession of articles supplied to a police officer under section 50 of the Act is now increased to \$10,000 and two years by clause 56 of the Bill.

The special award of \$100 that can be made by a judge to an officer for distinguished service in a criminal matter as provided for under section 55 of the Act is now increased under section 67 of the Bill to an award not exceeding \$500. This clause now allows a magistrate to grant such an award.

Finally, Part IX of the Bill makes provision for certain miscellaneous matters. These include the sale of alcohol, modes by which an officer can leave the service, the age of retirement, extension of service for officers in the First Division by the President and extension of service for officers in the Second Division by the commissioner, power to make regulations, et cetera.

Before I proceed to deal with the next Bill, I wish to indicate to hon. Senators that, as a result of the consensus reached in the other place, there were four changes to the Police Service Bill. First, clause 23 was amended to create a right of appeal to an officer appointed by the commissioner to the Police Service Commission in

disciplinary matters. This was necessary in light of the removal of the Public Service Appeal Board as the appellate body for similar matters in relation to police officers. Secondly, clause 64 was amended to restrict police prosecutors to the rank of sergeant. Thirdly, clause 76 was amended to increase the amount of salary from one to three months, payable to the next of kin, in the event of the death of an officer.

Finally, clause 78 was amended to provide that regulations made under the Act would be subject to affirmative resolution of the House of Representatives. The existing regulations were not saved because it was recognized that the operation of the new Act would require the introduction of new regulations which are being prepared and finalized; hence both would come into force together.

Madam President, I now turn to the final Bill, the Police Complaints Authority Bill, 2006.

Madam President: Mr. Minister, you have 10 minutes.

Sen. The Hon. M. Joseph: Among the recommendations made by the technical team was the repeal of the existing Police Complaints Authority Act, No. 17 of 1993 and to replace it with a more comprehensive Act. This is essentially the same Bill that was laid in June 2004, except that a provision was inserted in clause 24 to expressly state that the investigators would not be police officers. I should add that some of the clauses have been redrafted for clarity, for example, clauses 15, 24, 31 and 32.

The Police Complaints Authority Act was enacted in 1993 as a result of a great deal of dissatisfaction expressed by members of the public in relation to reports made against the conduct of members of the police service. Briefly, if I may recap for the benefit of hon. Senators, that Act provided for the establishment of a Police Complaints Authority and a Complaints Division. The functions of the authority included receiving complaints on the conduct of any police officer from the public but not from another officer and monitoring the investigation of complaints by the division.

In addition to receiving and reviewing the reports in relation to those complaints from the division, the Complaints Division, as provided for under the Act, is a unit of the police service headed by an officer appointed by the Commissioner of Police with the approval of the Minister; hence it would appear that police officers were investigating police officers. Such a situation is contrary to promoting police integrity, efficiency and good management. In fact, it is this kind of environment which helps to foster police corruption and mismanagement.

Not surprisingly, the technical team was of the view that it was improper for a unit of the police service to investigate allegations against their colleagues as this might appear to be conflict of interest and should not be condoned. The team was also advised by the authority that the powers of the authority were somewhat limited and because of such limitations the authority was unable to discharge its functions fully as was hoped when the Act came into force. The team examined legislation from both Ireland and Australia, for example, the Police Integrity Commission Act, 1996 of New South Wales and recommended that the existing Act should be replaced by a new Act, which is before us.

The main purpose of this Bill is to establish an independent body and to give it the power to investigate serious police misconduct, police corruption, criminal offences committed by police officers and the conduct of any person connected with such matters and to refer its findings to the Director of Public Prosecutions, the Police Service Commission or the Commissioner of Police for appropriate action, as they think fit. The body would also like the existing authority to be called the Police Complaints Authority.

The attention of hon. Senators is directed to the fact that the authority, as provided in clause 5 of the Bill, is a corporate body. It would be comprised of a director and a deputy director to be appointed by the President on the joint advice of the Prime Minister and the Leader of the Opposition. However, clause 6 goes on to propose that where such advice is not forthcoming, the President in his discretion, but after consultation with the Prime Minister and the Leader of the Opposition, shall make the appointments.

The Bill also makes provisions for the qualification, disqualification, tenure, acting appointment, revocation, resignation and remuneration of members of the authority in clauses 7, 8, 9, 11, 12, 13 and 14 respectively. It is to be noted this clause 19 provides that the authority is not subject to the direction or control of any other person in the performance of its functions, but the authority under clause 20 is required to submit an annual report to the appropriate minister for laying in Parliament.

It is proposed under clause 22(1) that the authority should have all the powers of a commission of enquiry as provided for in the Commission of Enquiry Act, Chap. 19:01. It is proposed that the authority should be given adequate staff to perform its functions and the power to contract for special services in this regard.

The Bill also provides that the authority will have the power to determine its own procedures for the conduct of its meetings so that not even the Government could tell the authority how to conduct its business. This is intended to secure and promote the independence of the authority. The functions and powers of the proposed authority, as provided under Part III of the Bill in clauses 21 to 25, are much wider than those given to the existing authority. The new jurisdiction of the authority under the Bill is principally directed at investigating criminal offences and any aspect of police activity which may involve police corruption or serious police misconduct. Its role includes giving advice to the police service and other public authorities and the elimination of police corruption or serious police misconduct.

Madam President, the authority, under clause 21(1)(e) and (g) may even gather admissible evidence that may be relevant to the prosecution of a person who is not a police officer for criminal offence relating to the police service and transmit such evidence to the Director of Public Prosecutions for any further action.

The authority under clauses 24 and 25 respectively will be able to appoint any qualified person to conduct an investigation on its behalf and also to employ persons with specialist skills and qualifications to assist in the performance of its duties. I would ask hon. Senators to note that whereas the existing law, that is section 21 of the Act, allows only members of the public to launch complaints against police officers, the Bill is drafted in such a fashion as to permit police officers themselves to launch complaints against other officers. This is seen in clause 26, which provides that the authority, apart from acting on its own initiative, can initiate an investigation based on a complaint received from a member of the public, a police officer, the appropriate unit of the public service and the disciplinary tribunal.

The authority under clause 22(2) and (3) is vested with the power to require any person to produce books, records, et cetera, which may be relevant to the functions of any public body or authority and other powers which are incidental to its prescribed functions. For instance, under clause 31, it enjoys the power of entry and inspection of premises occupied or used by a public body or authority in that capacity without the need for a warrant. However, where the authority wishes to enter private premises, in furtherance of investigation, it is required under clause 32 to first obtain a search warrant from a court.

Madam President, there are other clauses I would have liked to highlight, but perhaps in the committee stage we would be able to address some of those other clauses that would allow the Police Complaints Authority a wider capability of

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discharging its function in a way that will allow the police service to be a more efficient and effective organization to provide the citizens of Trinidad and Tobago with the quality of law enforcement that we are so desperately in need of.

I beg to move.

Question proposed.

Sen. Wade Mark: Madam President, before I address the Bills before us, may I be permitted to extend, on behalf of the Opposition, our profound sympathy and condolences to the wife and family of Mr. Oswald Wilson, former chairman of the Elections and Boundaries Commission and attorney at law, who passed away over the weekend. A true patriot and committed citizen of this land of ours, Mr. Wilson has gone to the great beyond. May his soul rest in peace.

3.00 p.m.

Madam President, our hearts also go out to the family of Sean Luke, a young six-year-old, like many young people in our country, who we understand from police reports, was buggered and then murdered. His body was only discovered some time today. He was from Orange Valley and attended a school nearby.

As the Hon. Minister indicated, these Bills are designed to help modernize the police service and provide the authority with the greater wherewithal to confront the crime monster currently haunting this land of ours. As we speak, the record is there to show. As we have always indicated, legislation alone will not address the crime wave in our country. Sean Luke became the 102nd murder victim in our country. He also became the 44th murder in the month of March; what analysts and columnists have described as the bloodiest month to date. You can see headlines in the various newspapers indicating that there appears to be no let-up in the crime wave that is sweeping our country.

It is against this kind of somber atmosphere and background that we are engaged in a debate on three measures: the Constitution (Amdt.) Bill, the Police Service Bill and the Police Complaints Authority Bill. Allow me to share with you some thoughts on the situation in our country today, as presented in the editorial column of the *Trinidad Guardian* of today's date. It reads:

"Make us feel safe again"

I want to read the first three or four paragraphs in this particular editorial so that we can all understand what we are engaged in today. If the Government of Trinidad and Tobago does not put its house in order, legislation alone will not deal with this

deadly disease and scourge that has now enveloped our nation. I quote from page 24 of today's *Trinidad Guardian*:

"As this country advances towards 2020..."

whatever that means;

"we continue to rack up statistics for being the best, having the most, doing the greatest at any number of feats.

However, while we have much about which we can boast, the latest milestone we have reached is nothing to crow about.

This month is, with some 43 murders up to yesterday,..."

As I told you, Sean Luke is now the 44th;

"the bloodiest on record in our country. By today we would have left in the dust record-breaking April 21, 2005 figure of 101 murders up to that period. It is not yet the end of the first quarter and already T&T's murder rate has now surpassed all previous years.

In spite of the imported Scotland Yard officers;..."

This is costing this country \$50 million.

"in spite of the eye in the sky;"

which has turned blind,

"in spite of the blimp..."

which is now limp and is heading back to Washington at a cost of \$26 million, hopefully to be replaced,

"and the sophisticated..."

yet to be seen,

"attack helicopters and the advances in forensics to improve the detection and solving of crime; and in spite of the passage of the police reform bill, guns continue to roar and people continue to die.

The laudable and extensive efforts of the police and Government notwithstanding, we will not feel safe in T&T until the killings stop."

That is Trinidad and Tobago today as we speak, a country bathing in wealth but very poor in its very social fabric, as it continues to be destroyed.

Genuine people's empowerment requires a profound and ongoing deepening of the democratic process in any country. Modern governance practices demand a system of transparency, accountability, openness and scrutiny, particularly of key officials who are located in very critical and significant institutions in our nation. The amendments before us today constitute a major development in the politics of Trinidad and Tobago, from the perspective of the people's involvement. These amendments have brought about, for the first time, the removal of the veto power, which has been enjoyed by many Prime Ministers over the past years. The days of appointing commissioners to the police service, without any reference to the Parliament, in this instance the people's elected representatives, are over. The days of a police commissioner and his deputy commissioners being appointed, either directly or indirectly by the Prime Minister, through his veto power, are now also gone. All will now fall under the searchlights of the Parliament: the House of Representatives, the people's representatives. Negotiations are never easy and I hope that the Government extract the very pertinent lessons from this particular engagement. I will say more about that as I go on.

As the *Trinidad Guardian* pointed out, this all-knowing, rampaging approach that the Government has in doing business in Trinidad and Tobago, may eventually lead this Government and the population to a clash. I will explain what I mean later on. Negotiations are never easy. This was a difficult round that we engaged in. The whole question of how we should proceed, what methods should be employed in selecting both the members of the Police Service Commission, as well as the appointment, selection and ultimate appointment of the police commissioner and the deputy police commissioners were not easy matters to address.

As the alternative government in this republic, we have always been guided by principles and we, in these discussions, advanced some of these principles and were guided in our discussions on the basis of three criteria. First of all, that whatever laws we pass must never lead to an abuse of power. That was one of the principles or criteria that we enunciated during our negotiations with the Government. We also advanced that laws must never be used and should never be introduced in order to promote violence in the political process or the political system, because we have had many episodes of that experience in the past. We also advanced that laws should never be promoted nor enacted to facilitate discrimination of any kind, but that laws must always seek—particularly what we are dealing with, one element of the public service and I dare say the public sector—to promote a system of

meritocracy in our republic. Therefore, it was against this background that the UNC suggested to the Government a formula to address the inadequacies that exist and continue to exist within the framework of our democracy, more so, as they relate to the service commissions.

We know, in spite of what has been said, that the service commissions are not independent. In theory, they appear to be independent. In practice they are not. Members of these commissions, whether we like it or not, eventually turn out to be creatures of the ruling party. What we sought to do, in an effort to ensure that there is fair representation on these commissions, is propose a formula where the Government, through the Prime Minister, would be able to appoint three members to the commission, in this instance, the Police Service Commission. In other words, the President, on the advice of the Prime Minister, would have the responsibility of appointing three representatives or members, as suggested by the Prime Minister. Conscious of the fact that the Executive has the responsibility to govern the country, the Opposition proposed that it be allowed to name two representatives on that commission, so that there would be three Government and two Opposition members.

Tiny Dominica and Guyana, as examples, have in their Constitution, provisions that facilitate that kind of arrangement, particularly Guyana. It is not a novel suggestion. Of course, you are dealing with a government. What we would like to suggest is that we are dealing with a very conservative and backward regime that is bent on sustaining the status quo. The only time they take decisions is when those decisions are against poor people as we are seeing in Tarouba, Chatham, Cedros and Tucker Valley with the farmers. I will talk about that, in terms of negotiations, in the future. It is against this background that we sought to advance our position. Of course, the Government did not accept our proposal that we should have a three/two arrangement. All that is part of the negotiation process, and we proceeded.

We eventually arrived at the arrangement that we are debating today; that the President of the republic—before he chooses his nominees to be members of these commissions, in this instance the Police Service Commission—would have to engage in meaningful consultation, not cosmetic consultation, but genuine and meaningful consultation. Having consulted with the Prime Minister and the Leader of the Opposition, he will then, through a notification, submit to the Parliament, the House of Representatives, a list of nominees that certainly he would have submitted, based on some possible consensus, as far as is practically possible. Having done that, for the first time, the House of Representatives would have the

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privilege of debating these nominees. That is not a bad thing. That is a very good thing for our democracy. It should be extended to every commission in this country. We are talking about deepening the democratic process in our country. We are talking about transparency, accountability, openness and scrutiny. High officials who occupy significant positions in our institutions must come under public scrutiny. The space that was allowed in the past for nepotism, discrimination, favouritism and victimization, would now be something of the past, because we will be discussing the matter in the Parliament.

The Commissioner of Police, who is very critical in the scheme of things where law and order is concerned, will also be subject to open debate; his nomination. No longer would the Prime Minister use his authority to call the last Commissioner of Police, Everald Snaggs, to Whitehall and take out from his back pocket an envelope that he got out of the Police Service Commission and say: "Here, Mr. Snaggs, I am appointing you as Commissioner of Police." Mr. Snaggs was of the view that his loyalty was not to the Constitution and people of this country, but it was to the Prime Minister of the republic. Those days are over. No longer would the Prime Minister be allowed to abuse his power of veto, as he did in the past.

We have an experiment that we have begun, which is perfect. Mistakes are going to be made, but we have to start and we are proceeding. There are some armchair critics who should really be fighting for office. There are some leaders who have parties without members and they go about the place criticizing the Opposition for being able to—*[Interruption]* No I have members. We have 300,000 members. I am not worried about you. You are not me. You are passing through. I have been here for a long while and I will stay in power. I am being interrupted. Let me continue.

Some of these armchair critics argue that with respect to the veto power that has been removed as a result of the agreement, the Prime Minister still has the veto power in Parliament. So what is the big thing and hurrah about? What these critics fail to recognize is that for the first time, the House of Representatives will be debating nominees who are members of service commissions, in this case the Police Service Commission. For the first time in the history of an independent republic, the Commissioner of Police and the Deputy Commissioners of Police will be subject to public scrutiny, through the Parliament. That has never happened in the history of our country. Some of these armchair critics who seek to water down and attack these proposals are looking for cheap publicity. We will deal with them on the hustings. What is also significant in this particular matter is that the Government and the Opposition have agreed that to move forward, we have to engage in some changes, not as many as we would have liked to, but changes nevertheless.

I want to bring to the attention of the Minister of National Security that in the Constitution (Amdt.) Bill, if we look at clause 6 repealing section 123(8)(d), it speaks to the issue of officers who are holding down permanent appointment and if you wish to terminate their services, how you would go about it. Under clause 78(1) of the Police Service Bill, as you would see, it is stated that:

"The President may make regulations..."

subject to the affirmative resolution of the House of Representatives,

"to give effect to the purpose of this Act, and in particular for the following matters:"

Maybe the hon. Minister can tell us in his winding up how soon regulations are to come to this Parliament, because the old regulations no longer exist. It is new regulations that are being introduced. Unless the new regulations are brought, the Act that we will be passing today will not be able to take its full effect. This is an area I would like the hon. Minister of National Security to address.

I noticed a document that happened to reach me, it is a Legal Notice without a number—I do not know if this was done in haste, as how they brought the 39 Scotland Yard officers. The document is entitled: *The Police Service Commission (Amendment) Regulations, 2006*. This Bill has not been passed. I see that the Chairman's name is here, Mr. Thomas. There is also T Gomez, M. Thorpe and L.M.G. Ramdeen and S. Jairam. I do not know if this thing has gone out, if it has been leaked, or if it is in preparation for action. I want to read what it says.

"1. These Regulations may be cited as the Police Service Commission (Amdt.) Regulations, 2006.

2. The Police Service Commission Regulations are amended as follows:

(a) by revoking and replacing regulation 50 as follows:

50(1) Where it is represented to the Commission or the Commission considers it desirable in the public interest that any Police Officer should be required to retire from the Police Service it shall call for a full report on the Police Officer from the Commissioner and may take into account the Police Officer's previous record during the last preceding five years or where the Police Officer has less than five years service the Police Officer's record during his period of service.

- (2) Where the Police Officer is the Commissioner the Commission shall call for a full report and such record from the Permanent Secretary, Ministry of National Security.
- (3) If, after considering such report and such record and giving the police officer an opportunity of submitting a reply to the grounds on which his retirement is contemplated and, having regard to the condition of the Police Service, the usefulness of the police officer thereto, and all the other circumstances of the case, the Commission is satisfied that it is desirable in the public interest to do so, it shall require the police officer to retire on such date as the Commission shall determine, and he shall be retired accordingly.”

The ink has not even been dried and we see a regulation coming out.

Madam President: Would you give way to the Minister to reply?

Sen. Joseph: Thank you very much, Senator, for giving way. Those two things are two independent activities. That has nothing to do with the Bills and the regulations that are being revised in support of the Bills that we are currently debating.

Sen. W. Mark: As I said, I just raised the matter. It reached me and I thought it was my duty to bring it to your attention. If the Minister is saying that this has no material basis and that this is a fraudulent document that has been issued—
[*Interruption*]

Sen. Joseph: I never said so.

Madam President: Sen. Mark, the Minister did not say it was a fraudulent document. He said that it had no relation to what is before us at the moment and that new regulations concerning these Bills, are being prepared. Please do not use words that are not particularly relevant to what is being said.

Sen. W. Mark: Madam President, I brought it to your attention and the public's attention, through you—

Madam President: Thank you very much.

Sen. W. Mark: [*Interruption*] Do not tell me to move on. You have no authority to tell me to move on. Madam President, you alone can tell me that and once you tell me that I will move on; not Sen. The Hon. Dr. Lenny Saith.

Madam President, may I continue? As I have said, parliamentary scrutiny will minimize the chances of the wrong persons being nominated, either to the Police Service Commission or to the offices of police commissioner or deputy commissioner of police. We would hope that the authorities in this instance, the Government, would move post-haste, because there is a tendency on the part of this regime, not to implement measures. We cannot force the Government to implement measures. The Government has the authority and resources to implement. All we would like to suggest is that passing legislation is one thing, effecting legislation is quite another, and the whole issue of the management system is very critical—what kind of management structure, what kind of strategy, how would your strategy be aligned with your structure, in an effort to be able to devise and derive best practices, is something that is left to the authorities and in this instance the Commissioner of Police.

I want to point out that trying to fix this Constitution piecemeal, as we are discovering, is highly dangerous. Nevertheless, members of the public, as you know, various stakeholders and organizations, even the President of the republic, have been on the backs of parliamentarians to do something. We have heard from the Minister of National Security, that even with these changes which we support, the police commissioner will still have his hands tied behind his back. *[Interruption]* You did not say so. I am saying what you said. I am going to tell you. He told us earlier that the Permanent Secretary in the Ministry of National Security will still be in charge, for purposes of the Exchequer and Audit Act, for financial purposes, as the accounting officer. What I am simply saying to you and my colleague who has some managerial background—I do not note if he has put it to work—would know that you cannot have reform halfway. You must have total reform. What we are seeing is that whilst the Opposition is in support and we have negotiated and agreed, I am sure the Minister is actually observing the need for us to go beyond administrative and managerial changes, manifested in the Constitution.

Financial autonomy is also important. I believe as we proceed, maybe in the second round, because discussions are ongoing or the third leg, we would engage in financial reforms of the system where we move away from the old archaic system of cash-based accounting to an accrual-based accounting system. I think that is the way that we have to go. Why must we give the Commissioner of Police the power to appoint, hire, fire, discipline, and transfer and still he does not have the power to manage his financial resources? If we are talking about radical change, accountability and responsibility, and you want to fire the Commissioner of Police too, to fire this man, he must be able to have the kind of total independence. He does not have it. These will come in the next round of our engagement.

I would hope that the hon. Minister—[*Interruption*] He was part of the talks along with the Attorney General and Mrs. Camille Robinson-Regis, led by the Prime Minister. He would know that consultation and negotiations are very critical if you want to arrive at the best formula. I want to advise the Government—[*Interruption*]

Sen. Enill: Let me just try to see if I can get clarification from Sen. Mark. In matters of the control of the funding, I do not understand the point. Right now, for example, it is the Parliament that decides the allocation and in a real sense when allocations are made, coming out of the Exchequer, it is based on whatever the Commissioner of Police would have presented to the Minister of National Security and would be based on available revenue at a particular point in time. What the basic legislation is doing is keeping the Permanent Secretary as the accounting officer, responsible for the relationship between the Ministry of Finance and the police service, as it relates to fund accountability under the Exchequer and Audit Act. I do not understand how much more independent you could get as a consequence.

Sen. W. Mark: I understand your dilemma. There is a model called the input/output/outcome model. We have to move away. We would have to engage in another round of discussion in order to deal with that. I think he understands what I am saying. I do not want to pursue it any longer.

I want to come to the question of negotiations and consultation. I would like the hon. Minister of National Security to take a page out of the book of this exercise that we have just undergone. I am sure that we will be undergoing many more, either when we are there and they are here, but we will continue. Hon. Minister, why not engage in negotiations and consultation with the farmers of Guave Road in Tucker Valley? Again, consultation and not imposition. We all want development in our country. A smelter plant is a good thing, but for people in Cedros and Chatham they want to be consulted. They want negotiations. They do not want a smelter plant. Arising out of our discussions, we saw the benefits of consultation and negotiations and we have a product here today. If that same formula could be applied to the people of east Port of Spain—you do not have to have a situation where people are confronting you.

Today, for the first time, I heard coming from the lips of my dear friend: “Our friend on the next side”. I never knew that we were his friends. Of course, we are friends and I have no problem with that. I have been here for so many years and I never heard the Minister of National Security refer to the Opposition as his friends. Do you know why? We went into negotiations and came out with some positives

and my Minister is upbeat. He said: "Friends." I have no problem with that. I want the Government to become friends of the people of east Port of Spain, Cedros and Chatham and not impose their will on the people.

Madam President: I am giving you a chance, please come back.

Sen. W. Mark: I would like to indicate to the hon. Minister that the matter of regulations is very important. There are many pieces of legislation that the Government needs to address in his winding up. When the hon. Prime Minister addressed the Parliament on November 18, 2005 he spoke of nine pieces of legislation, inclusive among those were those that we are dealing with today, the police service package. We have passed the Bail Act. You remember we came and a special majority was needed, and through negotiations, we supported the Government on the Bail Act.

The Government also promised, in November 2005, that they would bring these things, as I understand it. Maybe the Attorney General could guide me when he is speaking, as to whether these things require simple majorities or special majorities. I do not believe they require special majorities, but he can let us know. A gun and kidnapping court—There is so much weaponry in this country, it is like the army cannot compete.

Sen. Jeremie: Senator, you asked a question. With respect to the gun and kidnapping court, the legislation has already been prepared. It is next on the agenda, but even though we have not reached it on the agenda, I am pleased to announce this afternoon that a committee has been set up with the Judiciary and key stakeholders, including the Legal Aid and Advisory Committee, the Director of Public Prosecutions, the Commissioner of Police and others to implement the court. Even though there is no legislation, work is going apace. No constitution amendment.

Sen. W. Mark: Has the Attorney General brought us up to speed—we would also like to ask him—not during my contribution any longer, but he will take a note of it—what has happened to the revised DNA legislation which the Prime Minister spoke about? We would also like him to tell us about the amendment to the Criminal Injuries Compensation Act, which the Prime Minister spoke about. We would like him to tell us—*[Interruption]* Take a note, you are interrupting me. I do not want you to interrupt me. Madam President would not give me injury time. She would stick to my hour. I am addressing you, Madam President, let my good friend take note.

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The strengthening of money laundering legislation was a piece of legislation that was promised by the Prime Minister. It is in the *Hansard*. The Attorney General is not aware of what his Prime Minister is doing. The Prime Minister spoke about the amendment to the Motor Vehicles and Road Traffic Act and, of course, the protective services compensation legislation. The one that is very close to our hearts and I dare say the heart of the Prime Minister, because I know he talked about an experience he had sometime ago. I know that he is a person who is very fair-minded, the equal opportunity legislation. We would like to know when these things are going to come forward.

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

Motion made, That the hon. Senator's speaking time be extended by 15 minutes.
[Sen. Dr. T. Gopeesingh]

Question put and agreed to.

Sen. W. Mark: I want to advise my colleagues on the other side that these pieces of legislation were promised. As the Attorney General said he would elaborate in his contribution later on. The Prime Minister did give a commitment that the next time we meet—I hope it is not after the general election—he would make sure that the equal opportunity legislation is the next item on the agenda for debate. We hope the Prime Minister—I know that he is a man who sticks to his word—does continue to do so. We look forward to that piece of legislation coming before us. I know the Minister of National Security is quite happy these days, given his expression of joy that was manifested earlier.

I want also to bring to your attention the fact that whilst we are passing what is called landmark legislation in the Parliament, the Attorney General in particular must never forget the kind of challenges that the justice system continues to face in our republic. Whilst he is not directly responsible—he would say that he would make resources available to the Chief Justice—the reality is that there continues to be an inadequate quantum for the Judiciary, to provide the kind of accommodation and returns necessary, so that people can really have a sense of justice in the process.

I would like to again bring to your attention the backlog of cases in the Magistracy. As we seek to deal with crime with these Bills, as the Minister said, it will provide the Government with the capacity to confront crime in a way that they have never done before. Let us hope that is true. If we are going to confront crime, we must catch the criminals. I was shocked when I read recently that less than 14

per cent of the many scores of people who have been murdered, have been detected, in terms of people being charged. Whilst we are talking about these things, the police service is still under-resourced. The justice system is still under-resourced. There are almost 500,000 cases as at the end of 2005, in the Magistrates' Courts of this country. We only have 40 magistrates. When that is divided, it is approximately 12,000 or 13,000 cases that one magistrate has to address. It is something that the Government has to pay attention to, in terms of speeding up justice in the system.

I do not want to talk about the Caribbean Court of Justice because there is a case before the court. I will talk about that on the hustings, you cannot stop me. You might try to stop me here but you cannot stop me on the hustings. *[Interruption]* No, leave that so. That is my friend. Anyway, I would say what I have to say about that later. That is why I am being very calm today. When we are in agreement I am calm. You need to be a little more cooperative on many other issues so that we can be calm here. We do not have to confront each other. Negotiations and consultations can provide a lot of dividends. That is why the committee system is so critical. That is something I will address some time.

Madam President, we had extensive consultations with a number of stakeholders in the system and we would like to, on this occasion, record our appreciation to the various NGOs that came to the Office of the Leader of the Opposition and provided their inputs into the measures and the matters that we were discussing at the time. People and organizations from the private sector, from the trade union movement and the NGOs all came and dialogued with us and provided us with their suggestions as to the way forward. What we have today may not constitute the ideal. Given the circumstances that we are faced with and given the concerns and wishes of the people, the UNC and the Government have reached an agreement. The legislation may work very well. It may not work very well. The law is not in concrete. It will not last forever. It is not cast in stone and, therefore, there is always room for revisiting the legislation in the future, through dialogue. That is very important.

I would like to emphasize the need for constitutional reform. We cannot be reforming and having one leg up and one leg down. Our two feet must be planted. In other words, we need to have major constitutional reform and major and comprehensive changes. The Government did in fact make a commitment that we would proceed along a parallel track; one that would deal with the Bills that we are dealing with and one that would deal with constitution reform. I am just reminding the Government of their undertaking, that we are holding our part of the bargain.

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We have been very true to our commitment. The Government has given the Opposition, and by extension the country, a commitment to embark with it on a path and process of constitution reform. I would like the Attorney General and the Minister of National Security to indicate in their contribution this afternoon, where we are with respect to constitution reform. It is important.

Madam President, who can deny or argue against the modernization of our police service? The police service is in need of change, but I want to remind the Government, as the saying goes, if you pay people peanuts, you get monkeys. You cannot subject our police officers to inhumane conditions. You cannot allow our police officers to have retrograde and backward terms and conditions of employment and expect them to perform well. The Government has to understand that, whilst we have amended and repealed the Police Service Act, we still have some very critical matters to deal with. We have to deal with the terms and conditions of work of members of the police service. We have to deal with a system of meritocracy within the service. I am waiting with bated breath for those regulations that would require affirmative resolution of this Parliament, to see what changes are being advanced to ensure that there is fairness and justice in the system of recruitment as we know it in Trinidad and Tobago, where every creed and race must find an equal place in the society. I await that. It may not come here. It is coming somewhere else.

The question of transparency in recruitment, appointment, training, discipline, promotion and transfer of people, all have to be taken on board if we are talking about a new and modernized police service. The issues of victimization, racism, discrimination, nepotism and cronyism have to be addressed in our regulations. We believe that the modernization of the process in the police service is necessary and critical. There is need for the latest in crime detection technology for our police. DNA and other forensic instruments are needed. This exercise has been a very—[*Interruption*]

Hon. Senator: Rewarding.

Sen. W. Mark: Not altogether, but it has been a very educational exercise. I had the opportunity of being there on one occasion. I want to congratulate my colleagues. I believe that, given all that they were faced with, they have come out with the best formula at this time. It is not the ideal, but given the circumstances, that is what we have. There is always room for improvement. The Opposition remains available in the future to engage in further discussions with the Government, not only to deal with the police service, which is now behind us, but there are other commissions and areas we need to look at. There is the entire

Constitution that we need to look at and we are prepared to play our part to make sure that our country moves from this path of darkness and retrogression onto a path of progression and light. I wish to thank you very much.

Sen. Dr. Eastlyn Mc Kenzie: Madam President, I would like to make a few comments. First, I would also like to recognize the coming together of both the Government and the Opposition to what we have before us this afternoon. I would like to congratulate them on their give and take and, according to Sen. Mark, what we have as the final document, for now. There are just a few things I would like to comment on and some questions I would like to ask.

Like Sen. Mark, I am all in favour of a reformed police service and all the matters that have gone into trying to make sure that the service is a better one. I know the emphasis that we have placed on the commission and the commissioner, but I dare say that if they do not have the members of the ranks underneath, their work would be really impossible. It would be impossible for them to achieve anything. We need not put all our attention towards the commissioner and the commission, but also look at the work of the constables right up. That brings me to the few points I would like to ask and the comments I would like to make.

My first question is, will this procedure for appointing the commissioner and the commission extend to other commissions? That is one thing. We are setting a precedent, probably for the other service commissions. I would like to understand whether this is what is going to happen. You probably would not have a commissioner of the Teaching Service Commission or the Public Service Commission, but would their heads be subject to that type of scrutiny that you are talking about in this Bill?

4.00 p.m.

I note secondly that the debate, affirmative resolution, will take place in the House of Representatives among the elected Members and, despite the fact that I admire and respect the duties, the tremendous amount of work and the challenges faced by our present Minister of National Security under whose portfolio the police commissioner and all these police officers fall, he would be the person with most of the information—both confidential and public information—on the police service. I doubt there is anybody else in here or even in the Lower House, who would know about the police service, their problems, both confidentially and publicly, than our present Minister of National Security. But you would not be there in the Lower House when they are going to be debating whether the commission or the commissioner is good or what have you.

I note also that in six months after the passage of these Bills, that new procedure would have to kick in. What happens? That is one of the confusing things I have in my head, and I am saying this is something we have to look at. Will there be something—probably in the Constitution—to say that the Minister of National Security, responsible for police and police work, et cetera, should be an elected Member of Parliament? I see a little—I do not know what to call it, but I am just saying how I think from reading the Bills.

My next point, Madam President is, I note that in the Police Complaints Authority Reports of 2003, 2004, they mention that there was a little lull in the activities of the authority because there was no quorum; the chairman had to resign because of ill health, and so on and so on. And I am wondering whether in the new procedure you will have a short list after you have actually selected your commission; whether you would have people on a standby list—if you want to call it that—so that you would not have to go over the whole procedure if someone has to resign or whatever may happen. So I am saying that.

With the new procedures I see the need for resources because here you have in the Constitution (Amdt.) Bill where the members of the Police Service Commission, if they fail to perform their duties in a responsible or timely manner, they could be fired. If I am working in a police station or I am in charge of a police station, and you cut my phone because the bills were not paid, how do you expect me to function effectively, efficiently and in a timely manner? So I am saying that despite all these rules, regulations, procedures and whatever newness you have, you must see about the nitty-gritty of the functioning of the police stations. You have to give the police officers the resources, and so I am saying money—

I read in the newspaper on Sunday where a visitor to one of the top senior officers was there with a little “whirr whirr” fan blowing breeze, the air conditioning unit was gone, and he is expected to perform effectively, efficiently and in a timely manner, and believe me, as the gentleman said, he would have packed up a long time and gone home. I am saying that despite all these things we have to have the basic facilities and resources top notch, if we are to function properly. I see where the police commissioner will have a lot of responsibility, but a lot of opportunities and privileges, and I admire that he could get rid of the rogue cops. More power to him. I say, I love that. Let the man rule his plant; let the woman rule her plant; you are in charge; you cannot hold me to be responsible and I have no power or no authority; so I agree with that.

I think, again, that some of the rules and regulations which may not be written you have to look at. I say, through you, Madam President, to the hon. Minister— Even this week I read in the newspapers of something happening in Tobago, calling a police station and they are saying, no, you are supposed to report to the next one. Why do I have to report to the next one? I am reporting to the nearest one, and rushing to the nearest one. We have had examples of this in Tobago; not only from that man who was beaten and had to use his karate skills to stay alive, but to people who were nearly ambushed nearest to one police station, and when they actually got away and drove to that police station, they said: “You know what, you have come to the wrong station.” Is there anything like a wrong station to report a criminal activity? You go to the nearest station. I am saying that this might be an unwritten rule but it is a practice, and these are some of the things that you discuss and let people know. You could take the report, get in touch with the next station; while you are rushing, two, three stations could be having people rushing to the scene and so on.

So it brings me to the point—and probably I would have more to say on this next week when we continue to debate Prof. Deosaran’s motion about constituency and district policing—that I must be in this district or this constituency with a police station or service and say, this must not happen on my turf. I am saying that these are some of the things. I am happy that there is no complaints division of the police service because himself to himself.

Nearly finally, Madam President, I am saying you could have good trainees, good recruits, everything done well, but bad output, because your training process is obsolete and everything else. [*Desk thumping*] So, if you do not upgrade the training facilities, the training methodology, your trainers, et cetera, you could have the best recruits and they go through that system that is non-functional non-effective, terrible and outdated. In fact you may have so many people dropping out because this is not what they—if you are looking for bright people, they have bright minds, they are exposed to the Internet, what is happening all over the world, they are expecting top notch training, and you cannot put them through a system where, you know, when you read of it—it is the same thing with the prison service, but this is not the time for it. We need to upgrade the training facilities, the training methodology, the trainers and everything if we are going to look for good recruits and if we expect a good output.

Finally, Madam President, I would like to say that we need to upgrade the police stations. I know that that has actually begun so I do not want to behave as if I know nothing is happening. I know that upgrades to police stations have begun

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and I am happy for that, but I am saying if you want all these things in these three Bills to be implemented in six months' time, you have to really speed up the upgrade of the police stations.

Madam President, a lot has been said by Sen. Mark and I know many of my colleagues would have much more to say, but this is just what I would like to say at this time. I want to thank you for the opportunity to speak.

Thank you.

Madam President: Nobody else here? Anybody? *[Interruption]* You decide between yourselves. You are a little slow on the draw, Senator. Go ahead, Senator.

Sen. Prof. Ramchand: Well it is their turn.

Madam President: So you are prepared to give way?

Sen. Prof. Ramchand: Yes.

Sen. Dr. Tim Gopeesingh: Madam President, first of all, in the context of which these three Bills have been brought to this honourable Senate, based on bipartisan discussions, conclusions and agreement, it is our view on this side of the Senate that we must first of all congratulate the team that took part in these discussions that transpired over a few months. Also, to sincerely congratulate the Members of the Opposition team who were able to show the Government that the Opposition is serious about moving the population forward in its thrust against crime. But the packages of legislation that were proposed previously, were not acceptable to us and we are happy that the Government saw the wisdom of changing their positions on a number of the issues that were originally proposed in the first set of legislation when Prime Minister Manning brought it to the House.

Of course, the most important concern that we had is that there should be no political interference in the management of the police service, and particularly when the Prime Minister had the veto power of the appointment of the Commissioner of Police. We were not comfortable with that situation, because it smacks of political interference and particularly as my colleague Sen. Mark indicated, the population would have drawn some conclusions when the Prime Minister handed over the appointment to Police Commissioner Snaggs on a particular morning.

So the independence of the Executive from the Parliament and the Judiciary under the Westminster system ought to have been preserved. There were overlapping areas where the Executive was becoming involved in the police service, and we definitely said that that cannot go on. You would remember the genesis of all the issues on the need for police reform and, Madam President, the hon. Minister indicated that in August 1999 a bipartisan team from Government and Opposition came together and then they appointed a technical team headed by Sir Ellis Clarke, and three bills were prepared by that technical team.

Following the preparation of these three Bills, in July 2002 the hon. Basdeo Panday laid the Police Reform Bills before Parliament indicating then, that it was only draft legislation and not the final word on that matter. It was agreed that the views of various stakeholders and the general public would have been obtained and would be accorded due importance on the construction of the legislation; that goes back as far as July 2002. But when the government changed in October 2002, Prime Minister Manning in November laid and introduced the Bills for the first reading, but without the public consultations which were necessary for furthering the championing of those Police Reform Bills. There was agreement that there should be public consultation on these bills from since when Sir Ellis Clarke gave his report to the Cabinet at that time, and this was never carried out. The hon. Prime Minister at that time, in November 2002, just brought the bills before Parliament without further public consultation.

You would remember then that the Parliament echoed serious concerns about that, and as a result a Joint Select Committee had to be set up for consultations and discussions. Well the Joint Select Committee had concluded its findings and they had obviously presented them to Parliament but Parliament prorogued, and the recommendations of the Joint Select Committee were not really accepted subsequently and were never really tabled for debate.

Then the government at that time engaged in a nefarious onslaught to the population, making the population believe—spending millions of dollars on advertising the need for passage of these Police Reform Bills—that the Opposition party was obstructionist; that we were not prepared to support any legislation of the Police Reform Bills and tried to blame the Opposition for the escalating crime that was taking place at the time, but not seeing themselves in the mirror, that they are really responsible for the escalating crime. They spent millions of dollars in propaganda to try to make the population believe that they had to go to the Members of Parliament, and they must besiege the Members of Parliament for them to support the passage of this legislation, and you would remember, Madam President, we could not have accepted that.

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The Government was defeated in both Houses on their determination to railroad the passage of these bills on that occasion. Days were spent in parliamentary debate and millions of dollars were spent by the Government to try to pass this legislation, when we told them originally that these pieces of legislation had within them, erosion of the democratic rights and the freedom of certain individuals which we as a party, waiting as an alternative government, could not have accepted, because there was breach of the fundamental freedom and human rights of any citizen in the Police Reform Bills that were being sought to be passed at that time.

So the Government at the time learnt their lesson and realized that they could not pass this legislation and get the two-thirds majority that they wanted, because the Constitution (Amdt.) Bill needed a two-thirds majority but the Police Service Bill and the Police Complaints Authority Bill just needed a simple majority; they could have gone ahead with that. But the Police Service Bill and the Police Complaints Authority Bill impacted on the Constitution (Amdt.) Bill, and if the Constitution (Amdt.) Bill could not have been passed, it did not make sense passing any of these two other pieces of legislation. So they saw the wisdom because the Opposition had to be telling them all the time, what you are proposing cannot be accepted by the population.

One of the major amendments to the Constitution in the repealing of sections 122 and 123 by clause 8 of the Constitution (Amdt.) Bill, 2003 and replacing them as follows, as was proposed then, was to create a police management authority instead of the Police Service Commission. Section 122(3) allows for the members of the Police Management Authority to be appointed on agreement by the Prime Minister and Leader of Opposition, failing which the President who holds such office at the pleasure of the present Government, and who has been nominated and appointed by such government, would nominate and appoint the members of the authority. That allowed for serious political interference into the administrative functioning of the police service without checks and balances.

Imagine they wanted to bring in the Police Management Authority, and the Police Management Authority had to agree on how it was going to be appointed by agreement with the Prime Minister and Leader of the Opposition. Then if they did not agree, which the Prime Minister would say then, "I do not agree," the President would have made his appointment. But the Office of the President is a creature of the majority of the government in power. His appointment is based on the Electoral College and the Government has the power, therefore the Police Management Authority would have been a creature of the Government, and therefore we envisaged that there would have been political interference into the administrative functioning of the police service, and we said no way.

You have the Police Service Commission which is an independent institution under the Constitution and you want to bring in a police management authority which would have serious political interference. Section 122(6) then indicated that even the Police Service Commission Regulations which are entrenched into the Constitution would be revealed and instead the Police Management Authority would act in accordance with the Police Service Bill, 2003 and its regulations, which are not entrenched in the Constitution and therefore could be amended and changed at the whims and fancies of the relevant Minister.

The point there is that the regulations of the Police Service Commission are entrenched in the Constitution, but when you want to change the regulations of the Police Management Authority, those regulations are not entrenched in the Constitution and could have been subjected to the whims and fancies of the relevant Ministers and political directorates.

So those are two instances where we backed up against a wall and we said, no way, you cannot come with us on that. You are going to have power to appoint the Police Management Authority which would have political interference. You will have the ability to make regulations for the Police Management Authority, which is not enshrined in the Constitution and therefore it is unacceptable.

Section 122(8) provided the Police Management Authority with the meagre power only to set a procedure of conduct of their meetings whereas under the Constitution, the Police Service Commission had powers to regulate its own procedures and make its own regulations for management of the police service. Therefore, the Police Management Authority would have become an authority without any powers. Then it was proposed under section 123(1). Section 123(1) when they brought it back to Parliament, empowered the Police Management Authority to appoint the Commissioner of Police. So the Police Management Authority which is going to be appointed based on political patronage now has the power to appoint the Commissioner of Police, the deputy commissioners, assistant commissioners and senior superintendents.

Therefore, Madam President, the Government at that time wanted to have the Police Management Authority under their control. The Police Management Authority would employ the police commissioner, the deputy commissioners, assistant commissioners and senior superintendents. Section 123(1) empowered the Police Management Authority to remove such officers as well, and that is the same Police Management Authority which would have been appointed by the President. And

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that allowed the Police Management Authority (PMA) to become a political tool, since all such officers would now have to support the political directorate in order for them to remain in their jobs. That was politicization of the day-to-day control of the police service to highest degree.

The population knew at that time these were the discussions that emanated and we could not have supported those things, therefore they had to think again. We forced them into a corner so that they had to do a rethinking on bringing back these Police Reform Bill packages. Section 123(3), at that time, provided that where the PMA appoints a commissioner of police or a deputy commissioner and the Prime Minister is not in agreement, he can object, thus giving the Prime Minister the opportunity to choose his persons.

Section 123A gave the Commissioner of Police powers of appointment and removal, this being the same commissioner that could be solely chosen by the then Prime Minister. Under the Police Service Commission, the commissioner does not have power of removal for Second Division officers, so why give the commissioner such widespread powers to remove people as assistant superintendents, superintendents and assistant commissioners?

Madam President, from 1999 to 2002 a lot of discussions took place and what emanated was a high-handed approach by the Government or the administration to try to railroad their way into creating a police management authority under a package of legislation which in fact was trying to change the Constitution, and they needed a two-thirds majority support, and we said we could not support what they were proposing in those pieces of legislation.

Madam President, you remember the outcry from the American Chamber, the South Chamber and the Bankers Association. They began to speak: Why does the Opposition not get together with the Government and change and accept the Police Reform Bills? The whole country was crying out against the Opposition for not accepting the recommendations of the Government at that time. Why are we to accept that when we have the fundamental rights and freedoms of the citizens to take care of as the alternative government?

All these 19 Chambers put out advertisements on the daily newspapers trying to belittle the Opposition because they felt that the Opposition was not supporting the Police Reform Bills that the Government brought on, and the cry was as a result of the Opposition not supporting the Government, which was a far cry from reality. We tried to explain to the population and they did not want to buy it. Even in the midst of the multimillion dollar advertising campaign by the Government to

promote these very bills, Sir Ellis Clarke, Chairman of the technical team that drafted the bills, flatly commented that these bills do not deal with crime at all. Sir Ellis Clarke confessed to being baffled as to why the bills were being promoted as anti-crime legislation, and the Government knew these were not anti-crime legislation, but management of the police service. Sir Ellis said that the bills were not about fighting crime. He said the bills were about management of the police service.

So what we have today is about management of the police service. All that we are agreeing to, the Constitution (Amdt.) Bill, the Police Service Bills and the Police Complaints Authority Bill, that package, which has been passed in the other place; what we are debating today is really the management of the police service; it has nothing to do with any other thing. The Police Service Bill is about putting enormous power in the hands of the administration; we felt to devastate the enemy.

Madam President, you remember the time Lawrence Duprey's home was searched; Carlos John's home was searched; things against Chief Justice Sat Sharma; the Marlene Coudray affair; the Devant Maharaj affair; the ACP Graham affair; the Maha Sabha; Clary Benn and Hubert Alleyne. We saw the autocratic approach by the Prime Minister and the Government at that time to dealing with individuals and we said no way, you cannot get through on that at all.

Subsequent to that introduction, the newspaper headlines blared with issues on crime. Today or just yesterday you saw on the *Daily Express*: "Bloody March deadliest month as murder toll hits 100"; just in 86 days 100 murders. The *Newsday*: "Seven killed in 48 hours, 100 murders, rate soars pass March 2005 poll". Madam President, the passage of these Bills today really will have no impact upon the escalating crime that is continuing.

I just want to bring to the attention of this Senate that whereas on Monday, March 27, 2006, 100 murders, 86 days; in April 21, 2005 as opposed to March 27, 101 murders in the *Trinidad Guardian* on Thursday, April 21, 2005: "Army mourns soldier killed in Laventille, Death toll climbs to new high".

Madam President: You will have to continue after the tea break. I have allowed you a little thing, but try to be more relevant as you continue and not to repeat, please. All Senators, please try not to repeat what other people have been saying in their contributions, otherwise we would just be going on and on and on.

Hon. Senators, we would now take the tea break and come back at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. Dr. T. Gopeesingh: Thank you, Madam President. When we broke for tea I was on the point of engaging the attention of the Senate on the question of our will to pass the legislation, as evidenced in the other place. But we are uncertain as to when all these legislative measures are enacted and proclaimed, whether the situation will continue as previously, because the real question is the management of the police service. In fact, at the moment, the management of the police service is really with the Police Service Commission and with the Commissioner of Police, and is it going to be fundamentally different? Not necessarily so.

What is fundamentally different in the proposed legislation is that the Commissioners of the Police Service Commission would be appointed based on public scrutiny. In other words, they have to come to Parliament and their names would be proposed to Parliament and where Parliament would look at their creditability and have to discuss it.

It is the same manner in which the Congressional Committees of the United States operate—not the same necessarily, but a little different—but the question of public scrutiny will come into play. Therefore, we believe that we may have some of the better people coming forward who are unafraid to serve at a high level. And we may be getting—not that the present members of the Police Service Commission, that we are questioning their integrity but the method of public scrutiny is a good one where, when these members are selected the public will have confidence in these members who have undergone public scrutiny in the Parliament.

Therefore, when we speak about whether passage of the Reform Bills will assist, there are big questions. Those questions have gone long before they engage the attention of editorials: “Will passage of Police Reform Bills reduce crime”; “Reform bills—once again with feelings”; those are editorials from as far back as April 22, 2005.

We may probably see that even with the passage of the legislative measures that are before Parliament, we may not find a difference in the crime situation. What it really calls for, therefore, is total management of the entire police service, which basically, will now fall onto the hands of the Commissioner of Police. Now the Commissioner of Police will be responsible for almost 7,000 police officers. There seems to be a real problem and perhaps the hon. Minister might be able to give us some elucidation on these issue: How many matters are before the Police Complaints Authority? How many police officers are facing disciplinary action? How many police officers are on suspension with full pay and with half pay? How many police officers are tied up in the courts?

Therefore, effectively, I hope the hon. Minister of National Security would be able to enlighten the Senate of these 7,000-plus police officers. Remember we have one of the highest densities of police officers per civilian population in the world. I think we are far higher than what is in New York at the moment. So out of the 7,000-plus police officers, we would really like to find out when we pass this legislation: are we really dealing with a police force of about, 3,000 or 4,000 active police officers, because so many are on disciplinary actions and half pay and full pay?

Remember the Government had the opportunity to bring in almost 700 or 800 Special Reserve Police Officers recently, and they were given the full go-ahead to bring them in. So we know that a lot of them are tied up in the courts as well, and I am sure that my learned colleagues in law, in Parliament here, will indicate that time and time again you see 42 Magistrates' Courts and in each court there are at least five or six police officers per case and there are almost 10 or 15 cases going through for the day. And by a process there, in each one of the courts you would probably have, at least 20 to 30 police officers tied up in courts on a daily basis, five days of the week. What is really happening?

We may give the poor Commissioner of Police the ability to manage the police service, but his hands may be tied in a number of ways. I will give you a little example: He would need to have an idea of—for areas of finance and planning—finance to manage the finance of the allocation to the police service, as the hon. Minister alluded to and Sen. Conrad Enill indicated that the Permanent Secretary will be the person responsible for managing the finance and the accountability. But are you giving the Commissioner of Police the authority to manage the police service and he has to seek permission from the Permanent Secretary to get the finance, whereas, sometimes, there might be blocks and bottlenecks in the whole process?

He may want to advertise for certain personnel with competence and he may not find the ready availability of the finance because of the bureaucracy in the Ministry, that the Permanent Secretary cannot give him the type of support that he would need. He would be continually distressed to find that he or she would be unable to effect and implement what he or she really wants to do. So he or she needs to have advisers in finance and he or she would need to have advisers in planning, because this is a management issue: How do I manage my 7,000 police officers? How do I manage my deputy commissioners; my superintendents; assistant Commissioners of Police and infrastructure?

Infrastructure is such a critical, important part of the day-to-day management of the police service. Police stations: when there are hot areas as had been identified by the hon. Minister of National Security—seven hot areas—and in those seven hot areas five of the police stations were dilapidated, how is he going to manage the dilapidated state of the police stations? He needs support there. The human resource component—every police officer has to be assessed; the trainees have to be assessed in two years to determine whether they are going to be staying on or not, but every police officer would have to be assessed on their capabilities, their competence and their performance.

I doubt, Madam President, whether there is a human resource management system in place in the police service which can effectively deal with the assessment of police officers on a regular basis, because this seems to be lacking in almost every area. I mentioned it in Parliament on the education system. I know, because I had been there in the health sector. You have to put in job descriptions; you have to ensure that the police officers know what their job descriptions are in terms of sergeants, superintendents; commissioners and assistant commissioners. Everyone will have a certain job description. Therefore, if he is unable to have an effective functioning human resource department the whole question of assessment and promotions would not be able to be fulfilled.

He needs help in law. In fact, I think it was one of our Independent Senators who mentioned sometime ago that there is nobody in the police service to give legal advice; there are no advisers, basically, legally in the police service. We would want the Minister of National Security to give us some ideas of how the Commissioner of Police will be strengthened in his efforts to manage the police service, even when we have passed this legislation.

It was Sen. Dana Seetahal who wrote on April 03, 2005; “Legal advice for the police” and she indicated in the *Sunday Guardian*:

“Imagine a country with a police service, made up of hundreds of police officers, that does not have a single legal adviser, far less a legal department.”

In fact, we pass the legislation today or whenever; we have a Police Service Commission which is going to be appointed on a scrutiny basis by Parliament. We have a Commissioner of Police who is going to be appointed by his name being put forward through to Parliament and being debated and discussed. But then the poor commissioner—we are saying, fine, you want that, you have been asking us to help

you with the legislation; we are giving you the ability to enact the legislation, we are supporting you—do you really feel that you are competent enough to effectively manage, put into place or implement systems to assist the Commissioner of Police so that he or she may be able to work effectively?

Where this administration falls down is the question of implementation. They have been asking us to support them; we said we would support you, but we want you to change the method of selection for the Police Service Commission members and the method for selection or appointment of the Commissioner of Police. We have agreed, let us move on. This Commissioner of Police will need people inside its department in law, finance, human resource, public relations and infrastructure, and that is a mammoth task. So we look forward to seeing what will be done and we are prepared on this side to assist in establishing committees, if Parliament would agree to establish committees, so that we could assist the Government in part of their implementation process. Because it seems as though they are very weak and we are willing to give our ability and our competence, to lend it and add to the Government—although they are mainly responsible.

Madam President, part of the situation with these Bills, as mentioned; I am not repeating what Sen. Mark had indicated earlier on, but I want to draw to the attention of the Minister of National Security the question of the Police Service Bill, the regulations under the Police Service Bill. We understand that in the other place all these regulations were made null and void in the debate and I believe that might be true, therefore, there needs to be new regulations for the police service. How quickly are those regulations going to come into play because the efficiency and the effectiveness of the management of the police service will depend to a large extent on these regulations?

It was Colonel Thomas Picton who established the police service in 1835, and it was set up with a military structure, and to date that military influence is still very much present in the police service. One just has to look at the structure, the current uniforms, the police orchestra and obligatory salute. And we are aware that tradition plays an important part in any organization. But where it is we are looking at a modern service under the proposed legislation, there is some justification to make radical changes and possibly, a complete overhaul of the entire police service. So this is where the regulations are critically important in helping the Commissioner of Police in his day-to-day functioning for his effectiveness.

Imagine, the official badge of the police service is still the *Star of David* which was introduced in the 1930s by the then Commissioner of Police, his name is Mavrogordato. Now police organizations worldwide use their country's Coat of

Arms as part of their uniform. Do we have to be that unique that we use the *Star of David* still? These are some of the fundamental issues on the question of regulations for the Police Service Bills.

Then the selection process. We all know that the selection process was flawed: you have to have a special width of your chest and a special height; not questioning your brainpower or your mental capacity. I am sure if they say that those regulations are now no longer—we want to see regulations that would allow for the brainpower to be taken into consideration more than the physical attributes. We must not bring our level down so that we would say that we would accept people with three O levels into the police service. If we are to have a police service that has the brainpower, we must bring a certain level of competence.

This country with our thrust in education has been moving forward, we are moving close now—and we started in our regime in 1995—2001 to improve the education system, and we are moving close to 15 per cent of our population which would have tertiary education. There are a number of citizens who have one degree and two degrees, therefore why would it be impossible for us to bring into the ranks of the police service people of high brainpower? Of course we need to pay them more. Those are some of the things they would have to look at.

The qualification for appointment as trainee: We say we are moving away from the three O levels; move to something that is of a higher caliber. The regulations as they are at the moment, a probationary assessment of a constable on first appointment and two assessments in two years, the first assessment being done after one year of service. Why can we not enact regulations so that we have an assessment after three months in the police service rather than waiting a year to find out that those recruits and their trainees are not capable of being in the police service?

The principles and selection for promotion: The promotion criteria should be geared to officers being able to be promoted on merit, and officers who continually fail promotion criteria should have an avenue for early exit. We should not be burdened in the police service with people who are failing the criteria for promotion on a repeated basis and we still keep them within the police service. If that selection process is done correctly the number of officers not meeting the promotion criteria will diminish and we will have a better police service.

So what we are speaking about here is the real management of the police service to make it better, and really, this legislation is just a question of making sure that the Police Service Commission have independent people and the Commissioner of Police is an independent individual. But really, the crux of the whole management

of the police is the question of the regulations that are going to be put in place for the management of the police service. And this really would impact upon the crime situation. There is a mishmash in the police service at the moment in terms of competence and the number of people who are there.

We must be mindful that the terms and conditions of employment is an issue, although we know that is an issue for the employer which is the Commissioner of Police and the employee. We need to be mindful that it is a police service that we are looking at and not just a civil servant. The number of allowances for hardships and so on should be reviewed with gross salary being taken into consideration. Vacation needs to be reassessed. We understand that police officers work four-hour shifts and where are they housed after four hours; where do they go? They are moved from one area to another; are they compensated for it? Hours of shift and so on ought to be negotiated so that there would be increased productivity and we would have a full complement of our police officers on the streets.

Madam President, as a result of that, we would hopefully not be able to see these blaring headlines on the editorials: “Government cannot evade blame for the Crime”, as in the *Daily Express* editorial on April 04, 2005; “Who’s really winning the war?”:

“Eight months ago, the Minister of National Security, Martin Joseph, assured citizens that the government would win the war against crime...”

but it is not happening. “Desperate times need desperate action”; Friday, April 22, 2005; “What we want is action”.

So we on this side are agreeing that we have come together with Government to pass this legislation. We will not be accused of trying to be obstructionists—which we are not—but what we are really interested in, is seeing that the crime rate falls and the people of Trinidad and Tobago, the citizens of Trinidad and Tobago are ensured the security which is one of the basic tenets of life. They must have the freedom to move around with adequate security.

I have cut out these clippings over a period of time, not because I liked cutting them out, but because it reminds us of what is happening. And it is really painful for us to stand in Parliament and talk about bringing about legislation, enacting legislation, when we are not able to fulfil and implement the laws that ought to be implemented. You see letters to the editors: the authorities are not helping us; people are frustrated; editorial time for frontal assault—

Madam President: Hon. Senators, I just realized that your— Hon. Senators the speaking time of the hon. Senator has expired.

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

Question put and agreed to.

Sen. Dr. T. Gopeesingh: Thank you very much, Sen. Dr. Kernahan. Thank you very much Members of the Senate. What we would like to see, Madam President, when the Prime Minister talks about:

PM talks tough on crime; we have to lock down Tobago, Chaguanas and Cedros; we will lock them down. There shall be no rest for the wicked; the Government will be on your heels...

We want to see that this talk is translated into action, and we must not have people saying that—the hon. Minister of National Security would have heard this comment made: You have 500 bad men in 66 gangs, able to identify the gangs and the men and women involved in these, and yet, still, we are unable to do anything about it. We would talk about “Operation Bagdad”; “Operation Anaconda”; “\$26 million Blimp”; we would talk about “eye-in-the-sky”; we would talk about Prof. Mastrofski plan; we would talk about bringing in George Mason University from Washington; we would talk about “operation lockdown”. But if you do not have a proper functioning police service where you are able to weed out the bad elements and give the Commissioner of Police the ability to weed out the bad elements from inside there, and we see it on a daily basis that so many police officers—the majority of police officers in this country are hardworking, dedicated men and women of tremendous integrity, but there are a number of them who are engaged in kidnapping, who are engaged in criminal elements. So we hope that with the human resource capacity that the Commissioner of Police would have been given by the Parliament allowing the Commissioner of Police to manage the police service from below the three Deputy Commissioners of Police—that rank—we hope that he or she will be given the opportunity.

Now there is the question that emanated: whether a Commissioner of Police can come from outside the jurisdiction of Trinidad and Tobago on a contract from overseas. This legislation here, Madam President, is open to the fact that a Commissioner of Police can be appointed on contract from abroad. Now, that can create some problems, because when there are men and women who are on a career path development process aspiring to be a Commissioner of Police one day and we find that because we do not have the wide amount of people who are qualified—at

least 15 years in the service and have special qualifications—we may find someone having to be appointed from outside. I think the administration will have to look at that question because that is a strong possibility, because these advertisements will have to be made outside of Trinidad and Tobago as well.

The other situation is when the Commissioner of Police or the members of the Police Service Commission are to be appointed it goes through a process—a number of processes. We on this side are a little worried whether there is the capacity to move this process with rapidity so that we can get the effective outcome at the end of this. Because if it has to go through different committees and the different committees have to recommend different stages— *[Interruption]*

5.30 p.m.

No, no no, what I am saying, we have agreed to it, Members on the other side, fine, but what we would like to see is that the Members on the other side have the capacity to implement this in the process that we are thinking about. I know we are capable of doing it; but I do not know whether they are capable. So I am just asking and advising that the process would go through with some degree of rapidity. I hope I have not hit below the belt, because this is their real problem.

Madam President, in my remaining few minutes, I would just like to indicate that the question of management by the police commissioner has a lot of important implications and he would have to have a number of people around him to give him a lot of advice. And I hope that the financial situation and the bureaucracy in the ministries would not stymie or stifle his desire to move forward. We note that the Police Service Commission will be able to call on the police commissioner at any time to ask him to give a report of his management during any particular period. But if he comes and says, “well look I have been asking for this and I have not got it; I have been asking for this and I have not got it.” How are you going to blame the Police Commissioner then? Are you going to blame the Police Service Commission? These are some of the questions that we are going to be asking.

Madam President, the management of crime which basically the police commissioner and the Police Service Commission would be looking into—

[Cell phone rings]

is on a three-pronged way.

Madam President: Just a moment, somebody’s cell, please. I am not too sure where it is coming from, the gallery or upstairs. Okay, continue.

Sen. Dr. T. Gopeesingh: Madam President, the question of crime has to be approached in three different ways. Prevention, and by prevention I mean deterrence as well; detection and punishment. And prevention has to be a number one front line thought process for the whole police service personnel. So they know where the 500 members of gangs are; they know 65 gangs, why can we not do something about it? They say that the blimp will look at 500 feet level; they would be able to tell police cars number plates; they would be able to intercept telephone calls on cellular and so on, but yet it has come in and they have not been able to assist in the kidnapping issue and so on.

We want to see that there is a massive computerization of the police service. We have so much money available, bring in the experts, start a programme whereby every police vehicle would be outfitted with a computer system and would be able to determine whether a vehicle in front of them is an unlicensed vehicle—and you know how many criminals around the world are caught by just this simple process of looking at a number plate. Computerization and the record-keeping by the police service. We all speak about the DNA not being proclaimed. We have the forensic laboratory that is not working efficiently and therefore all the DNA things that could help to solve crime have not been put forward. You said it is coming, but it has been coming for a long time, hon. Minister.

We must have a registry for sex offenders; we must have a registry of all the citizens who are being sent back to Trinidad and Tobago who have committed crimes abroad. We must be able to monitor them and determine what is happening to them. We need to have serious prison reform.

Hon. Senator: Yes.

Sen. Dr. T. Gopeesingh: And I just want to quote from an article from Amnesty International, dated May 30, 2005, Amnesty International, Trinidad and Tobago prisons "appalling". And I quote:

“Amnesty International (AI) said prison conditions in Trinidad are so poor that they sometimes amount to ‘cruel, inhuman and degrading treatment.’

In its 2004 report it spoke of abuse in prison and abuse by police.

‘Conditions in places of detention continued to cause grave concern.... A task force on prison reform in 2003 failed to address the vast majority of problems.’

Amnesty said that after the Government granted them unrestricted access to the major prisons, at Golden Grove and Port of Spain Prisons they witnessed ‘appalling conditions’.

‘Both suffered from severe overcrowding and prisoners were forced to defecate and urinate into containers and then place the human waste in buckets outside the cells.’ Cells, of three metres by three metres, said the report, contained up to 17 prisoners. ‘Violence in prisons persisted.’ The report said Kern Phillips was stabbed to death by another prisoner and Ignatius Owen died from a beating by inmates, both men being held at Golden Grove.

The report criticized abuses by police.

‘Torture and ill-treatment by police continue to be reported. At least 24 people were shot dead by police.’ Amnesty singled out the shooting of Kevin Cato where a police officer has been charged with murder, and of Galene Bonadie whose death is the subject of an inquest.”

Madam President: Senator, you have three and a half minutes more.

Sen. Dr. T. Gopeesingh: Thank you, Madam President. All these questions remain unanswered. The *Guardian* of February 26, 2005, “Twenty-two killed by police bullets in 2004”, and the names are here on the newspaper.

Madam President, there are a number of issues that could be looked at and implemented to help the police commissioner or the new one to assist him in crime management, in crime detection, crime deterrence, the whole question of prevention, detection and punishment. My colleague quoted only 14 per cent of cases are detected on the murder scene. If we have Magistrates' Courts where there are 450,000 cases pending in the Magistrates' Courts, we would not be able to solve the problem of flog punishment.

So the question of training, equipment, motor vehicles, police stations, DNA, a number of these issues need to be actively taken into consideration by the new police commissioner under this proposed legislation and the Police Service Commission. We looked at it very critically and a number of things ought to be implemented. It is our feeling and desire on this side to make sure that the population deserve the security and get the security which they deserve. We have decided to pass this legislation and we are in support of it; but we want to see action and performance by the administration.

They asked for it; we have supported them; we have told the country that we are supporting the legislation package, but we are saying that the legislation alone would not solve the crime problem. It is the ability of the Government in power and this administration to move swiftly to be able to deal with it and they are not dealing with it, Madam President.

Thank you very much. [*Desk thumping*]

Sen. Prof. Kenneth Ramchand: Madam President, I wish to join the speakers before me who have commended the political parties for the spirit of cooperation and consultation in which they proceeded for several months until they arrived at the Bills that are now before us.

Madam President, it is important. The democratic process is a process by which the different interests in a society are allowed to express themselves and it is above all a process of give and take—a process in which nobody gets all that he/she wants; but everybody gets some of what he/she wants. Compromise is at the centre of the democratic process. My good friend, Mr. Felix Edinborough, Pierrot Grenade would only warn that when you compromise, you must make sure the compromise is not compromising. We must not compromise ourselves by the compromise we make. A compromise is acceptable when it is the result of good faith and mature understanding.

This is not the occasion to speak on other aspects of the crime situation than what is covered by the Bills before us but I do want to say, it is comforting and inspiring to notice the efforts of the Trinidad and Tobago Chamber of Commerce and other citizen organizations to involve the community in working together; not only to attend to the manifestations of crime, but to get into the habit of working together as communities, for this to me, is perhaps the most profound way in which we are going to deal with the causes and sources of crime. So while that is my position about a wide range of activities, I recognize that the present Bills—I am sorry to disagree with the Hon. Sir Ellis and with my colleague down there—have to do with management but they are very anti-crime. If you improve the management, you improve the effectiveness of the police; and if you improve the effectiveness of the police, it is anti-crime.

Madam President, I want to speak a bit about the trainees. I know the Minister probably has information which he has not given us, and therefore I can take the opportunity to give him some advice. If you had given us the information, I would not have been able to advise so much.

Clause 12(1) in the Police Service Bill states:

“The Commissioner may appoint as a trainee a person applying”

I wish we had a system where we accept as a trainee, we do not appoint as a trainee. You have applied to be accepted as a trainee and we have a process that leads to your acceptance. But I would like to know because we do not have any information about it, how long—in other words, I am envisaging a course of training, lasting an extended period, maybe one or two years; preferably two years

and I want to know what courses are being taught. Would the courses have to do only with police work? Would the courses have to do with general education and cultural literacy? Would the courses teach them to write, read and spell? What balance between the courses and the practicum and practical internship of police activities would there be?

In other words, I would like to know what is the training programme, what is the curriculum and how long it is going to last? We have to pay sufficient attention to the training programme, and to devising a curriculum, and to assessing all the training needs of the young people we take in. Three O levels is not good enough. You have to hold on to them for the two years and really turn them into people who can think for themselves; people who know their society, as well as who know about taking evidence, investigating and DNA and so on. It seems to me it should be a very rigorous training. So I do hope the Minister at some point will be able to disclose to us how the planning for the training programme is going.

Madam President, I am going to talk about the Bills themselves, especially the Constitution (Amdt.) Bill, and I would broach several topics but the two questions or my two themes, things that would be in my head while I am talking are:

- (1) Who controls the police? Is the police now squarely under the control of the Minister of National Security? How much control does the Police Service Commission have over the police?

I have read the Bill and I have tried to work it out, but I really cannot work out where control lies.

- (2) Has the legislation—the Minister said that the Police Service Commission is getting a new identity—so changed the Police Service Commission (PSC) in such a way as to affect one of its most important functions, which is to provide insulation against interference from the political powers in certain sensitive areas?

I really want to know whether that is what we have done, without realizing it or whether that is what we have done realizing it. Has the legislation changed the PSC in such a way as to affect its insulating qualities?

Madam President, coming to the Bill, the Bill is quite clear about what it is about. That is “An Act to amend the Constitution to reform the Police Service Commission, to confer powers on the Commissioner of Police, to control and manage the police service.” To that end, it says, they are going to transfer most of the powers of the Police Service Commission to the Commissioner of Police. This

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is not anything new. What this legislation is doing insofar as it is transferring the powers or giving the Commissioner of Police those powers, it is doing something that the Constitution said, could always be done. If you look at 127 of the Constitution, it states:

“A Service Commission may, with the approval of the Prime Minister and subject to such conditions as it may think fit, delegate any of its functions ... to any of its members ...

(c) in the case of the Police Service Commission, to the Commissioner of Police or to any Police Officer of or above the rank of Superintendent.”

So it was always within the realm of possibilities that the Police Service Commission could delegate powers to the Commissioner of Police.

There is a certain amount of confusion on this subject, because in his book, *The Public Service and Service Commissions*; a former Head of the Public Service and the Police Service Commissions says:

Hon. Senator: Who is the author of the book?

Sen. Prof. K. Ramchand: Mr. Kenneth Lalla.

Hon. Senator: [*Inaudible*]

Sen. Prof. K. Ramchand: You want me to answer?

Sen. Dr. Mc Kenzie: He said go and ask him.

Sen. Prof. K. Ramchand: Okay. On page 71 he says:

“What Government as employer did not recognize and indeed appeared to have been indifferent to, was that the Commission had delegated to the Commissioner of Police since 1966, the powers to recruit trainee constables; promote police officers in the Second Division; appoint police officers to act in the ranks from corporal to senior superintendents; to exercise disciplinary control over police officers in respect of acts of misconduct; to transfer police officers; to confirm police officers in the Second Division and to suspend police officers.”

However, notwithstanding the vesting of all these powers in the Commissioner of Police, it became traditional for the many holders of the office to declare themselves to be “toothless bulldogs”. It is a quotation. In fact, I did see the letter doing this. So I think there was a certain amount of confusion and—

Sen. Joseph: I am not supposed to do this, but I must indicate to hon. Members on the other side, that while that particular chairman indicated that he had delegated authorities to the commissioners, in the exercising of those duties, commissioners were still required to justify why any particular action they took, despite—one of the criticisms levelled is that we did not have here a single point accountability and authority, okay. And I would answer your question in terms of where the control lies in my winding up. But to say that the Constitution made provision for delegation, the Constitution may very well have made provision for delegation, but Commissioners of Police in all fairness to them were not allowed to delegate, because whenever they exercised that, they were still required to justify any particular action that they had taken.

Sen. Prof. K. Ramchand: Well I am glad I said it, Madam President, because the person writing this was a person who served on those commissions and it is here in print and I think if it has to be refuted, it really ought to be refuted. I do not think the Minister should feel any reluctance about commenting, because you are not “mauvais languing” anybody. [*Interruption*]

Sen. Joseph: One other thing.

Hon. Senator: [*Inaudible*] Do you have anything to substantiate that?

Sen. Joseph: How you mean if I have anything to substantiate that?

Hon. Senator: [*Inaudible*]

Sen. Joseph: Because there is sufficient evidence. I think on a second note, Madam President, I would not say what I was going to say with respect to the relationship between Ministers and chairmen, even in terms of discharging their responsibilities. I prefer not to say that.

Sen. Prof. K. Ramchand: So, Madam President, all I am saying is that it was always in the Constitution that these powers could be acted out by the Commissioner of Police and the Police Service Commission could ask the Commissioner of Police to do them, but there has been a certain amount of ambiguity and confusion in the issue. Therefore, the present legislation, and of course, there is a difference—I do not have enough legal training to go into it—between delegation and transfer. It may well be that if I delegate responsibility to somebody, that person has to account to me and has to report to me. But if you transfer, then it is by law now that the Commissioner of Police has those powers.

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So all I am saying is that the Constitution envisages this, but maybe the process of delegation was not the way to go, because delegation leads to the kinds of things the Minister mentioned. But let us be clear that what we have moved from is delegation to transfer. I have to tell you that the same author does not seem to think that there is anything wrong about this. Because what he says in the same book is that the Constitution makes it quite clear that the commissions have no jurisdiction to manage or exercise any management control over any of the services. Indeed, the power of management and control is vested in the appropriate ministers under whose portfolio the services fall.

Hon. Senator: [*Inaudible*]

Sen. Prof. K. Ramchand: Page 65. \$350 for this. I hope you all give me a refund. [*Crosstalk*] It is here, just make sure I am not in a university; I have seen university lecturers getting attacked. I am not a university professor, so do not call me. I do not get book grant and I am not a university professor anymore.

According to the author of this book, it is always expected, by him at any rate, that the police be under the control of the Minister of National Security. These are things that we have to talk about; these are things that we have to debate. I am not quoting this in a derogatory manner at all, I quoted with proper respect because it is there out in the public in black and white. If you do not agree with it, you could say you do not and if it is factually misleading, you could say it is misleading also, but it is there. That is why people publish. The word “publish” is to make public and you make public for people to agree or disagree.

Hon. Senator: [*Inaudible*]

Sen. Prof. K. Ramchand: When you write your review, send it and I would get Lloyd Best to publish it for you. So, Madam President, my understanding is that powers which might have been delegated by the Police Service Commission have now been transferred by law to the Commissioner of Police. So my question is, what or who can get in the way if a Government—not necessarily this Government—decides to capture the police service for its own purposes? Suppose they wanted to create a dictatorship and a police state with the police on their side, who can get in the way; who can obstruct them; who can prevent them; what check control or balance is there? Who can stop the Minister of National Security belonging to a Government that wants to create a police state?

Sen. Dumas: Guerrilla warfare.

Sen. Prof. K. Ramchand: Fidel was the last of many things. So I am looking at the provision that the Commissioner of Police reports to the PSC. It is on page 9 of the revised one, it is section 6:

“For the purpose of subsection (1)(d), The commissioner shall every six months report to the Police Service Commission on the management of the police service;

7. Notwithstanding subsection (c), the Police Service Commission may on its own initiative request a special report from the Commissioner at any time on any matter relating to the management of the Police Service to which the Commissioner shall respond in a timely manner.”

So I am going to 6 and I want to know: is this report to be in writing or is he going to come in and say to the Chairman of the Police Service Commission, "things going okay you know or I have a few problems."

Sen. Dr. Mc Kenzie: Professor has an amendment.

Sen. Prof. K. Ramchand: So I would very much like to see that this is done in writing.

6.00 p.m.

What does the Police Service Commission do with the report? What action follows the receiving of the report? Where does it go from there? I hope the Minister would explain this process, with a view to comforting us that the Police Service Commission would be able to intervene if it feels that there are certain managerial malfunctions.

Madam President, that was the first big issue for me. Who controls the police service? *[Interruption]* *[Crosstalk]*

Madam President: Please.

Sen. Prof. K. Ramchand: That is why I would like the proceedings of Parliament to be broadcast on television, so that when people are interrupting and crosstalking and playing the fool the public would see.

Hon. Senator: All right, Sir. *[Crosstalk]*

Hon. Senator: Do not get vex. *[Laughter]*

Sen. Prof. K. Ramchand: I must get vex. Even Jesus got vex and he went and cleansed the temple. *[Laughter]*

Madam President: All right, Senators, please. Member, please continue your contribution.

Sen. Prof. K. Ramchand: The second issue has to do with the changes in the way the Police Service Commission is appointed. Under the old system, the President, after consulting the Prime Minister and the Leader of the Opposition, would appoint. We have now removed that; the President nominates after consulting with the Prime Minister and the Leader of the Opposition. The names are then forwarded to the House of Representatives and subject to debate and to affirmative resolution of the House. I would like to know a little more about the nature of the debate.

I have seen in the press people expressing misgivings about who would accept being nominated to go into Parliament and have all kinds of things said about them. Even Dr. Eric Williams, a long time ago, wanted to know whether something like that would lead to "the sanctification of mauvais langue". We need to know whether the debate is going to be restricted to the qualifications, expertise and professional experience of the nominees. Presumably, if the names are forwarded to the Parliament, a curriculum vitae would be supplied and you would know qualifications, experience and expertise of the nominee and you would be able to wonder whether the university at which he got them was properly accredited; whether the degree had the kind of content we want and whether in his professional practice he has had a good reputation in this or that area.

We could discuss a person without wanting to know whether 20 years ago he had an illegitimate child. If you move into the personal life, where is the limit? How can we ensure and comfort people that when their name is discussed here, there would be no opportunity for persons to slander you? [*Interruption*] Sen. Mark knows very well that you could get in five sentences before the Speaker gets to you, so there could be all kinds of innuendoes or insinuations.

I would like to see the procedure clearly outlined that this is what we are talking about and you are not allowed to make innuendoes or insinuations of a personal nature which, having been made, however much you retract them, the press has got it already and it is out there. Once a thing is said, you cannot take it back or remove the effect it would have on the general public. It is a very delicate matter that requires careful placement. You have to say, "This is the way we do it."

The second issue about the nature of that debate is that I would like it to be where everybody, regardless of party, can say what they think. It would be a free and open debate on a subject where the nation is trying to choose persons to work on a very important national commission. You should not be guided by party lines; you should be guided by your own thinking and your own assessment of the one before you. After that, Madam President, I want a free vote. You vote by secret ballot for the nominee. That way, we have done a proper consultation with the Parliament.

What I have great misgivings about is that when the debate takes place, it would be followed by a vote which would go along party lines and, therefore, the whole show of democracy, the whole show of everybody having a say, is a charade, because the majority party carries. It is the will of the governing party that would be carried out. So we have constructed an elaborate process for appointing members of the Police Service Commission and the Commissioner of Police, and we are making it look as if the ruling party, whoever they may be, has surrendered control; but they have not. This is control with teeth in it. It does not look as if it is control, but when it is finished "you get bite". I am not too happy about celebrating this as an advance and as a democratization of the process, because the effect of this legislation is to put the appointment of the Police Service Commission in the hands of the Government, unless we construct the vote in the manner proposed or unless we say, "You need a special majority." There must be some system devised to ensure that the result is consensus, that the majority of people on both sides want it this way. I am just trying to show what we lose. With the present change, whereas previously the President appointed the Police Service Commission, now the Parliament, and because of the way our system operates, the governing party, selects the Police Service Commission. To me, that is a loss, because the origin of these service commissions was to insulate certain sensitive areas from political interference and political control.

The legislation always said that no Members of the House or the Senate could belong. It also said that if you are serving on some government body, three or four years would need to pass before you become a member. They had a rule about membership, the time interval and that remuneration must be out of the Consolidated Fund and not to be altered to the disadvantage of the commissioners.

When we reinvented the service commissions, the intention was that they should be independent and above and outside of the political process. [*Desk thumping*]

Sen. Bro. Khan: A fundamental point.

Sen. Prof. K. Ramchand: I read books about things like this. In *Thomas v. Attorney General* in 1982, Lord Diplock said that in respect of each of these autonomous commissions, the Constitution contains provisions to secure its independence from both the Executive and the Legislature. This is what I think we have dismantled.

Sen. Dumas: It was not working.

Sen. Prof. K. Ramchand: Both political parties are on record as having attempted to abolish the Police Service Commission.

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I close by wondering: Is the present Bill the thin edge of the wedge that would eventually make it impossible for the service commissions to retain their independence? Is the present Bill leading to a situation where we would be exposed, at last, to complete control of the country by the political directorate? I wonder if the compromise we celebrate may not turn out to be compromising in a very dangerous sense.

Thank you.

Sen. Prof. Ramesh Deosaran: Madam President, this Bill adds to a very short list of extremely significant reforms to the Constitution and the mode of governance in this country. It is important to put it on the record for reasons I would explain a little later on.

The first significant movement did come from the PNM Government under the late Dr. Eric Williams when he devolved power from himself on to the President in the Republican Constitution, more precisely in terms of selecting members of the service commissions and the judicial service as well. That, indeed, was a significant movement, not only in terms of the politics and the Constitution, but it is normally very difficult for somebody in public service to devolve a power which he or she has enjoyed for a long time, and that is important to understand, because it brings us to what this Bill is all about.

The second significant movement was under the UNC government, as it were, establishing under section 66(A) an amendment establishing what we call departmental committees, the joint select committees, to oversee, in part, apart from statutory authorities, the municipal corporations and the various ministries, in particular the very service commissions, one of which is up for debate this evening.

This brings us to that third important phase in what is really constitutional reform in a very significant way. One of the essential issues that has led to some controversy, is the veto held by the Prime Minister under the Constitution. It is not something he created; it is something he inherited as a matter of constitutional presence. Therefore, we must make a distinction between what we called "a Prime Minister dictatorship" and what could, in effect, be a constitutional dictatorship, as how the Constitution itself is shaped and the person in office merely executes what he or she is obliged.

At the same time, especially when you read the Constitution (Amdt.) Bill, and the role that the Lower House, the House of Representatives, has to play, and the non-role that the Senate has to play, I feel as if I am digging my own grave, as it were; [*Laughter*] that I am just a voice from the wilderness; as if it were my last rite in this exercise. Politicians never like to dig their own graves, independent or otherwise.

I think it is important, if you would allow me for a few minutes, Madam President, to preface my remarks by the democratic exercise in which we are involved. Some believe that we are putting the cart before the horse. How could the two major parties meet before a debate in Parliament has occurred, which is not the normal practice? But, perhaps, because of the urgency of the times, we have to move out of the ordinary in order to respond to the crisis facing us.

I do not think that it is really putting the cart before the horse; given the situation it is noteworthy and, perhaps, historic that these talks have taken place before, because urgency is the message at hand. I am not saying that the Senate is castrated and that we are digging our own grave, but the question of the democratic nature of election and the primary role of an elected Chamber must be revived to understand what is underlying this Bill.

We in the Senate are really tenants depending for our livelihood on the election process in which we did not take part. We arrived here mainly through the passage of an elected House. Therefore, we have to remove our sights from the personalities present there and look at how the principle of the democracy in which we live has been exercised by establishing what is called the "Lower House" and give them the right that this Bill asks them to exercise.

As I sat here and listened to the debate, I asked myself, "Why have we in this country grown so afraid of what is called 'political interference'? You must interfere politically when your institutions are failing. Who else do you expect to interfere than the elected politicians of the day? But I understand what has happened; the word "interference" has a certain connotation with it, but I prefer to live by the literal meaning of the word, in the particular circumstance, rather than get afloat by the connotation. The precise meaning of "interference" is to intervene constructively. That is where this debate begins.

I am hoping that the privilege given to the Lower House, in discussing these names, in terms of the affirmative resolution, would enable those in the Lower House to understand the responsibility thrust upon their shoulders. It is said that if you give a man a responsibility, he should be able to live up to it in a civil manner. I do not know if I am hoping in vain, because some people say that these joint talks remind them of a three-legged race, where one is keeping back the other from going as fast as they would like to.

The hon. Prime Minister did say that he himself was not satisfied with certain aspects of the final outcome, mainly because, if I remember correctly, he was not appreciative of the open debate over persons' names and, by implication, such persons may not want to venture out to serve the public. As some Senators have mentioned

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today, we hope that, perhaps, minimal damage will be done. One route is that even though the Lower House has the privilege through affirmative resolution, in good sense they still have the option to use the committee system. I do not think that you necessarily have to put it in the Bill; it is a prerogative that the Lower House can still use, I hope, sensibly. The compromise could, therefore, proceed further between the Opposition and the Government to use the committee system initially as a stepping stone.

If the other route is chosen, again we are assured that a look would be taken at how the Bill behaves when it becomes an Act and how the politicians behave and a second review would take place over this Bill. [*Interruption*]

PROCEDURAL MOTION

The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith): Madam President, I beg to move that the Senate continue to sit until the completion of this debate and passage of these Bills.

Question put and agreed to.

CONSTITUTION (AMDT.) BILL

Sen. Prof. R. Deosaran: There is a common saying about democracy; that it is of the people, by the people and for the people. In this country, there has been more of the people and by the people, but there is very little given back for the people. By that I mean that the distance between the elected politicians and the people who have elected them has grown too large, psychologically and politically.

I would want to ask my colleagues of the two Houses, especially those of the Lower House, how many of them have really gone out in Toco, La Brea, Caparo, Point Cumana and Guayaguayare and consulted with the people who elected them, on the implications of the content of these three Bills? To come and tell me that you consulted with the Chamber of Commerce and the Employers' Association is the same comment, if I remember, that the Leader of the Opposition in the Lower House, complained about, elitism. I am treading on dangerous waters, because it is first time that I seem to be debating against the ruling party and the alternative. I have to refer to some of Sen. Mark's remarks, because it is the first time that I have seen him so docile, ambiguous and very plaintive and I can understand. He himself is wondering. [*Interruption*] That is the point; it is a different mode of presentation, because these are new circumstances. [*Crosstalk*]

Sen. Mark: If I were an Independent, I would be like you. [*Laughter*]

Sen. Prof. R. Deosaran: When he told the Minister that he hoped he does not come back with the new proposals after the election, I was wondering whether he intended to occupy that position, even after the election. [*Laughter*] We are friends; Sen. Mark and I go back a long way and his shoulders are broad. [*Laughter*]

Since I am on that vein, I was a bit taken aback when he referred to what is called, "the armchair critics".

Sen. Dumas: That is you.

Sen. Prof. R. Deosaran: I know that I am excluded. I have honourable discharge from that category, but it is a little more important than that. When he referred to the fact that some persons criticized the Bill because they feel the Prime Minister's veto is still intact by implication and by the simple majority, but we cannot ignore the fact that there would be a debate. When he criticized these critics for making an intervention, I was taken aback, because I thought the Opposition always welcomed criticisms on Bills brought before the Parliament; that is what they usually do, but the shoe is on the other foot today; so they are getting the little medicine that they have delivered on the other side all that time, to know how it feels to be criticized on a daily basis; but it is more than that. It is an important point, because this is a democracy; my friend alluded to that. We are free to engage the Government and the Opposition and it is Sen. Mark himself who said that information is the oxygen of democracy, so critics provide information.

More than that, the very system in which we exist today, the nature of the checks and balances and the Lower House and the Upper Chamber, have emerged from armchair critics: Jacques Rousseau, John Locke, Hobbes, all these thinkers were in their armchairs; they were not hustling a vote Monday, Tuesday, Wednesday or Thursday, that was for other important people to do. You cannot discard the role of a thinker in a society by applying a connotation or, perhaps, by trying to belittle their contributions. It is, however, off the mark when you use your intellectual gifts, of course, to mislead other people for a narrow agenda. That is where most of us depart company with that category of thinkers.

I want to know whether or not bringing these names of those intended to serve in the Police Service Commission would help bring the people closer to our Parliament and heal the breach. This is a very grey area, because there are two sides to this story. One side emphasizes the potential misbehaviour and what has been called "the sanctification of *mauvais langue*" in the Lower House, but that is a personal

responsibility of the people in the Lower House. But this principle is more important; this Bill seeks to give a more democratic flair to the appointment and I submit that with reluctance, but with respect, because I know there is another view which has been expressed in this Senate.

I am more for getting the people closer to their Parliament. When those names come, if as is claimed they are going to represent the people and that makes the Bill stronger, I want to see how many of them would really show that they represent the views of their constituents or are they going to function as armchair thinkers as well, without connecting to the population. I wish, perhaps, that I had more rhetorical skill to make the point that democracy flows from the people, mainly through the vote, on to Parliament, but that power has to return to the people on important issues of the day, through their representatives or through the direct vote.

In other words, Parliament and democracy is not on linear terrain; it is circular; what you take from the people, you must at all times show that you are giving them back something. That is the message I hope this Bill would send, sooner or later. I am impressed with the Bill to some extent, because it shows a willingness to move towards constitutional reform in the particular case of the devolution of power. I think it is a step forward, if I have to make a choice, because while the Constitution has protected the service commissions and while the Diplock ruling in 1982 with *Endell Thomas v. the State* is relevant, I have a feeling that these things are outdated, because the test of a system is not the theory of that system, but it is in the practice. How did that institution behave?

Madam President, I have had an opportunity to examine these service commissions, 12 of us on both sides of the House, and I must tell you that there is so much inefficiency in these commissions, it will make your head spin to realize why we have not done something with them before. The test of what I am saying is not so much the independence given to them, it is really how they have performed and how some of them insist on performing so inefficiently. When section 66(A) was enacted and the claims for information from these service commissions were put upon them, "dey running" to get legal advice as to why they cannot respond to Parliament, but Mr. Martineau gave them the correct advice, as one of the legal counsels: Obey the rules of Parliament.

Even up to today when we want information from them to carry out the wishes of the Parliament, we have to wrestle with them, almost threatening some of them to be held for contempt of Parliament. And you want to tell me that we should not interfere with these commissions? I am, therefore, resting some of my arguments on the empirical state of affairs. I understand the attractiveness and seduction of

the principle of independence and immunity from political interference, but not because you are independent you should feel that you could behave anyhow you want and not be held accountable. If you want to modernize the Parliament, I really believe that because of the evidence of inefficiency and ineffectiveness, and with the police service crumbling, it is a mess, as some people have said, the time has come for us to do something.

As modest as this step is and with the assurance that we would take a second look at it as the experience develops, I have a feeling that we have done something relatively positive and we will see how it emerges. There is little or no alternative; you cannot leave these service commissions as they are, protected under sections 122 and 123, not with the evidence that my colleagues from both sides of the House have been gathering. The Teaching Service Commission has collapsed; the Ministry of Education cannot do anything, it has to depend on that Teaching Service Commission and you cannot just claim independence anymore when there is so much inefficiency. It is the same thing with the Police Service Commission; you have not been doing the job you are supposed to at the level of efficiency and effectiveness that would justify your existence; it amounts to that.

On the one hand you have the principle, which I respect and I wish the principle could have been supported by the practice of these service commissions. The gap has grown too wide. They too must learn to surrender their powers; this legal advice and resisting requests from the Parliament, those days are over. The best instrument for accountability is the people's Parliament; that is the best measure. As I said, it is of the people and by the people, but it must seem to function for the people. Those of us who have some element of power, must remember what was said by an armchair British thinker:

"Political power, the fumes of it invades the brain and make men giddy, proud and vain." [*Laughter*]

So we have to surrender power, devolve power to the wider public interest. We see some people wrestling for power, the service commissions. The Chairman of the Police Service Commission wrote five commentaries showing resistance as to why the change should not take place. They formed some monitoring system; I hope they do away with that, because we do not need another layer of bureaucracy between the function of the service commission and what it should be doing. We cannot hide behind any other layer of bureaucracy.

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Of course, I was a member of the Joint Select Committee that looked at the Police Reform Bills, 2003. We gathered information and went around the country. As a dutiful Member of Parliament, I attended all meetings. I always help with the quorum; it had nothing to do with extra pay; nobody had to write me and embarrass me. When you are a parliamentarian, a sense of duty must be exercised and that is what we are hoping would be done in the Lower House, because you would be dealing with the delicate issue of people's names and character. I hope due restraint will be shown in the Lower House. It is ironical that the word "lower" has to be used, but I hope the behaviour is not compatible with that nomenclature.

I had some details, but I believe that they have been raised by several speakers, so I would not repeat myself. The comparison has been raised, even in last Sunday's *Express*, by my colleague from the university, Dr. Ryan, and it is a mistake; it is a fallacy to compare the committee system here with the United States committee system. Maybe that is where the misinformation might be at issue, but the Senators in the United States Congress are elected. With the House of Representatives, they form their Congress; they have a different system of democracy; that is why I started off my remarks by asking what kind of democracy we want.

Do you want a democracy where you have parallel institutions, one having a check and balance on the other by the President of the United States and the United States Congress; this one has a veto on certain issues, the budget and so on; this one has a veto on appointments and so on, and there is a reciprocal set of checks and balances, but both sides are elected. We in the Senate have to take a dose of modesty and realize that we are in a different ball game and if democracy is founded so securely on an election process, sometimes we have to know our place; except that we hope with the enactment of this Bill, that our fears are not justified in terms of treating with these persons who come before the Lower House.

Madam President, I know it is a difficult Bill. I know I am on a little grey area here, trying to take a side, because I want to see the service commissions improve, especially the Police Service Commission. I would not like to stand accused of maintaining the status quo; something has to give. Whilst we are calling for checks and balances, even through Parliament, Parliament should be supreme, but you cannot obstruct a government from governing. You need government and you need your check and balance. In the system we have, it might evolve differently. You have a vertical system of accountability, that is, the Cabinet would perform under section 75 and even section 85 you have Parliament now making inroads into the role of accountability.

I am sorry, though, that the Senate did not have a place to play; if only for restraint and some kind of appeasement to the fears that people have. I thought that one compromise would have been to use a joint parliamentary committee, that would have eased those tensions and fears; but the two major parties compromised and, perhaps, we would have to live with that in a practical sense.

When Sen. Mark spoke about nepotism and so on, he was right. People are fed up with all this favouritism, nepotism and cliquishness. I think one of the spokesmen from the Opposition did mention the way these commissions are selected by elitism and friends; I think that is a very serious matter. I hope the transparency this Bill would bring to the issue, would help remove some of that.

Madam President, Sen. Dr. Mc Kenzie made an important point; I hope the Minister of National Security takes the point urgently and seriously as a means of helping to build public confidence in the police. This thing about going to the police station in your district, you have to stop that practice. People are frustrated and disoriented; I think the solution is to put a clause somewhere and remove the one that exists. It could be something like, "to the nearest police station". You cannot be bleeding and then running to the station that you are supposed to go to, whether or not it happened in your district. The medical doctor is right; he knows when you are suffering, either through trauma or physical injury, that you go to the nearest hospital or police station; same thing. I think that was a very important point.

I was a bit shaken by two claims. One is that these so-called crime Bills would make no difference to crime. Maybe I am thinking too hard about these Bills, but I believe if you enforce further discipline in the police service and you get these police officers to be accountable so if they do not do their job there would be some consequence to that neglect, this would help solve, detect and reduce crime. I do not see that it is quite true to say that this would make no difference. Of course, I understand the caution people are taking with this, because they do not want when the Bill is passed that everybody asks next week, "How come crime is still as it is?" But we cannot go to the extreme position and say that it would make no difference, not when you have the improved situation, through legislation, to discipline police officers, particularly, and the establishment of a more streamlined Police Complaints Authority. Of course, Sen. Mark is right; we need more than legislation; we all know that.

I want to pose a question which I and others have raised before. If you are doing this with the Police Service Commission, Madam President, Sen. Dr. Saith, Sen. Enill, Sen. Montano, a lot of Members of this Cabinet and previous ones, have raised issues with the Public Service Commission and the Teaching Service

Commission; even with the Statutory Authorities Service Commission; why do we not have a fuller package of amendments to deal with them? I think we should. I encourage the Government and the Opposition to continue their route, but they should embrace these other commissions, because the damage has been too severe and the reputation of the Government is on the line as well.

It is a happy moment to see that in the Constitution (Amdt.) Bill there would be some accountability to the joint select committee. I do not want to give with the right hand and take back with the left hand, but there is this matter of the Prime Minister's veto. If you have an open debate, and my colleague has explained quite well the implications of an open debate, we are aware of the implications. But what if you are the chairman of the National Security Council, as the Prime Minister is, and certain information comes to you about a deputy commissioner, for example, or an assistant commissioner or a sergeant, through the intelligence services, and it is of such a nature that the Prime Minister alone should know, for matters of national security, it could be an important factor in the deliberations in the Lower House, but it cannot be disclosed for obvious reasons? So there has been some rationale, of course, with giving the Prime Minister the veto.

I want to know whether in such a circumstance that information could be properly shared, because it has to be shared? You could not put a person in high office when you have a dark shadow hanging over his or her head, because if you announce it in the open house, the implications are serious. I believe that the thinkers on the Opposition and Government sides should really look at these nuances that have very serious implications. It is not a simple matter of a dictatorship or the lack of devolving power; there are serious implications with the management of such security information, especially as designed for a police commissioner or member of a service commission.

I have put up an amendment which, perhaps, may not be necessary, but it is out of an abundance of caution. I have an amendment to clause 6(4), where it deals with amending section 122 in the Constitution; that arises out of the major clause 6 in the Constitution (Amdt.) Bill. [*Interruption*]

Sen. Jeremie: Concerning the amendment you circulated with respect to 6(4), the words proposed were always in the Bill, as laid in the Lower House. It appears that in preparing the Senate copy, these words were accidentally omitted.

Sen. Prof. R. Deosaran: Well, that is why I said out of an abundance of caution, because I had a feeling that it could not be ignored. It was such an important point to put in: "subject to affirmative resolution of Parliament". We are on the same track; we should know that here. Somebody should be held accountable

for that omission, because it could have spoiled the debate. My friend himself had to be emphatic on the point. This is too important a thing to be left out; it is not a comma; it is a very important clause. Somebody would have to sign this; you would have to sign this afterwards, Madam President.

On the same page in subsection (6), there is an important point. As usual, I listened to the Minister of National Security quite carefully and he said that the Commissioner of Police shall submit a report to the Police Service Commission, but in the legislation I see that he shall merely report. So he could easily go in there, sit and report. This matter is too important to be left in abeyance; it should be said, as in the amendment proposed by me, that after the words "Police Service Commission", the words "in writing" should be inserted, because record keeping in such matters of security, policing and public confidence, and the judicial review might be coming afterwards, you need proper reports. The commissioner should know the manner in which he is accountable; not over a drink or having tea and sandwiches in the Police Service Commissioners' office, but in writing.

The Minister himself implied when he said, "submit a report, " because in his mind he really expects a report in writing. Again, if I am not mistaken, the amendment is a safe one; it merely helps to reinforce the wishes of the hon. Minister; so I would say, "in writing". [*Interruption*]

Sen. Seetahal: What about diskettes or CDs?

Sen. Prof. R. Deosaran: The Government would have to see about that, in terms of technology and so on.

There is a development which we have to keep our eyes on. It would cause so many amendments and untidiness, that I refrain from making any amendments except to alert the Government as to a possibility. We have really removed a lot of power from the Police Service Commission and put it onto the Commissioner of Police, but it seems to me that the connection with the Parliament that we had with the Police Service Commission had gotten under a grey area with respect to the connection between the Parliament and the Commissioner of Police.

In other words, we had a direct route where we could have called the Police Service Commission, under the select committee system and report, treat and examine their report directly. We do not seem to have that direct route with the Police Service Commission and it is an area to be alerted about, because most of the Police Service Commission's powers have been given to the police commissioner

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now. That is why the indirect route is to use the written reports he would be sending to the Police Service Commission, that we could use in Parliament under the Standing Orders, about calling for papers, persons and so. I find there should be a more direct connection.

Another happy note, few as there might be, is that section 122 of the Constitution has been amended by this new Bill. We no longer have the very curious practice, which might have contributed to some of the inefficiency, of having the Chairman of the Public Service Commission also being Chairman of the Police Service Commission. That has been an anomaly in terms of management and I am glad that has been taken care of.

On the Police Complaints Authority, I have suggested an amendment to section 6(2). After the words "joint advice", the words "within a reasonable time" should be inserted. That was a problem with the proposed Bill preceding this one; the question of how much time should the President wait for an agreement to be reached between the Opposition and the Government. There has to be a time limit, so that matters could proceed. *[Interruption]*

Sen. Jeremie: Senator, would you give way. The Interpretation Act at section 23 states that in public law the general rule is that reasonableness is always implied as a condition to the exercise of a statutory power. Where the law prescribes that something should be done by a public authority or body, the implication by the Interpretation Act is that it be done within a reasonable time; it was felt that it would be superfluous to add it to the legislation.

Sen. Prof. R. Deosaran: I was not guided by the Interpretation Act; I was guided by what was in the old Bill. I saw it dropped off; if it applies now, it could have applied then. Why was it put there in the first place?

Sen. Jeremie: We strive for perfection.

Sen. Prof. R. Deosaran: Under the Police Complaints Authority, when you read the provisions, it is very important legislation, because it shows a serious attempt to come to grips with dealing with the misdemeanors of police officers; something that has not been happening, as the Police Complaints Authority reports, one after the other, and Sen. Dr. Mc Kenzie has pointed out. We are in a mess with police indiscipline. We are caught between a rock and a hard place.

You cannot interfere with the service commission, but yet the mess is growing upon us and yet the police officers are getting away. They are not appearing as witnesses; they are not doing proper investigations in a timely fashion against their peers and a host of complaints repeated over and over in these reports, with nothing

being done constructively. Something had to be done. I am not saying what was done was a perfect scenario. I have already expressed my reservations, but it is, at least, one step forward. The reservations highlighted here and in other places should be taken seriously, because we are playing with some very important institutions in the country.

I suggest to the Attorney General, the Minister and Cabinet that before this debate ends, if they could give serious consideration to this point. When you read the Police Complaints Authority Bill, you see investigations, expeditiousness and legislation, but it goes to the Director of Public Prosecutions (DPP). So the result would still be hamstrung there for obvious reasons. My friend, Sen. Dr. Gopeesingh, made the point of the case backlog. I suggest that you could have a dedicated team of prosecutors attached to the Complaints Authority to speed up these cases; in the first instance, under the DPP's office. Of course, we know the constitutional implications, but you cannot depend on the DPP's office as it is to carry out the intentions of the Police Complaints Authority Bill. [*Interruption*]

Madam President: The speaking time of the hon. Senator has expired.

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

Question put and agreed to.

Sen. Prof. R. Deosaran: I am imploring, not just asking, because of the experiences some of us have had in reading about or with police demeanor, the ineptitude, the indiscipline, we want to see quick action. We do not want a scenario where a police officer is on suspension, drawing pay and driving PH taxi for years and years, because the case cannot be dealt with. You will have that same thing. So you have a very rosy-looking Police Complaints Authority Bill, but the mechanisms for dealing with the final product, that is, holding these police officers to accountability by a proper trial, will not be manifested.

I suggest that you have in the Police Complaints Authority a team of prosecutors. You already have advisors at hand, but you need this dedicated group of prosecutors to build up intellectual capital with the technique of prosecuting police, so that after a time, the Police Complaints Authority with this unit of prosecutors would be a fearsome group to deal with, awesome; and police officers must know that.

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

Another issue I would like to present for the Government's consideration under this Police Complaints Authority Bill, is the question of the forms. I am always interested in Sen. Dr. Mc Kenzie's remarks, because little things count a lot. Many times we are up in the air with big, abstract principles and policies and the everyday life of people is not getting attended to. What am I speaking about?

I have already spoken about the nearest police station issue. I want to speak about the availability and distribution of the police complaints forms. Mr. Vice-President, I have had several examples where people went with complaints to a police station and they were almost run out of town. They were not given the forms which are lodged in the police station. The police officer would ask, "So you come to complain about a police?" Of course, in the worst possible language, threatening language, which is another complaint, but they cannot get the forms. I suggest that the distribution of these forms be looked at and the Minister takes serious note of it.

When you are doing all this work, the measure is public satisfaction. How are you going to prosecute your cases, take up all these new powers and have your own investigating officers, when you do not have the forms properly distributed to members of the public? A member of the public with a grievance against the police, which has to be tested, of course, must feel comfortable in the process, which is not happening today. He or she must know where to get the form quietly without being threatened. I suggest opening more Police Complaints Authority offices. Have one in the North, Central, East and one in Tobago established, not visited. Have other places where the forms could be obtained, like in the warden's office, but people are afraid.

A case came across my desk just last week, where a security guard was threatened, and that is another issue with these guns and constables. The police officer threatened to shoot the security guard, because the constable brought his baby for care and wanted to pass the whole line. When the security guard told him to wait a while, he pulled out his badge and threatened, "I am a police officer; if I meet you outside, I would shoot you." That has to be tested, but I am telling you how the public and all the people who witnessed this incident felt.

When the security guard went to the Chaguanas Police Station to lay the complaint, he was threatened. The form was held back until the last minute. These things should not occur, which brings me to the point about these constables.

7.00 p.m.

When one looks at the number of shootings and the abuse of police force, one finds a number of constables are involved disproportionately: These young “fellas” with temper, their rashness, and impetuosity. I would suggest that when you are training them—of course, guns must be made available from corporal go up, and I know you would say it is for security and so forth, but the handling of a gun is too susceptible to the abuse of force.

A “fella” with five O levels, training in the barracks comes out of the room with a gun. That responsibility is too heavy for a young constable. He should be vetted under the ordinary probationary period even more than what is ordinarily applied to the trainee. It may be more suitable for a corporal or sergeant to carry a gun. It is an issue I would like the ministry and the Government to look at.

The constable would not be unprotected. There are countries in the world where they do not carry guns, but I do not want to make comparisons. The data we have in this country is that too many constables now are abusing their authority and their force through the abuse of a gun possession.

I like clauses 45 to 53 in the Police Service Bill which give you a list of obligations and duties of the officers. I am again wondering if someone with five O levels can understand all these duties and obligations. I know that we are accustomed to having constables executing their duties under these arrangements, but when one looks at it as somebody who teaches and knowing what it takes to understand these things, five O levels are not enough. That is why they make mistakes in giving evidence and in laying charges; there are all kinds of errors. So there are many fundamental issues more than the cross of David to look at.

These are really serious issues because to give a constable all these powers, to me, is really an operational dilemma. It is difficult for them to understand all of them competently at that level of intellectual competence and training, far more to execute the duties fairly and in terms of people’s civil rights and so forth.

On the use of the guns, these young “fellas” go home at nights, they put the gun on the table and go for lunch. I saw one took the police car and went to El Dorado to lime with a girl, two of them come out the car with guns in their pockets. One has to report all these things now. The public must feel assured and encouraged to report all these things that are happening that the Minister does not know about. I am surprised he does not ask: What happened to all these cars that were bought? What happened to the equipment, the bullet proof vests? These are questions to ask, not only bringing the legislation one after the other. The time has certainly come for that.

He tells me he praises in public and criticizes in private but I think that has to change too. You cannot let us criticize alone, right now we would need a set of police guards to help us. We are doing this out of a sense of duty, but the Minister should be perhaps a little more forthcoming with his analysis of the police service and let the public know he, too, is just as concerned. Whilst he will promise us there will be a reduction in crime, he should also tell us that he recognizes the problems that the whole country knows about with respect to the police service.

There was an amendment I wanted to propose, but I was advised by the Acting Clerk that now is not the time to do so. It is in the appointment of a police commissioner. There are a number of criteria in the Order which was attached to the previous Bill and I would like the Government to give me some advice in terms of the sequence.

I have seen the President's Order in terms of the criteria used, the Order for the appointment of the Commissioner of Police and Deputy Commissioners, that is, the qualification and selection criteria, and it goes quite well.

You need law; criminal justice is quite good because the world is changing; and criminal justice is an expanding discipline. Criminology or police service management, no less than 15 years and so forth, quite good; leadership skills, quite good; communication skills, quite good; commitment to the organization, very good; management skills, I like this one: The requisite vision which will enable him to guide the police service in the specific direction that will serve the best interest of the organization and the nation, very good; integrity. This is the best one: having the courage of his convictions and known among his peers for doing the right thing regardless of consequence to self and others. That is a genuine Commissioner of Police because people would have confidence in his impartiality and his courage to rule, and to protect and serve fearlessly and fairly.

So what is my problem then? My problem is in section 4, the one that follows. If I need to move an amendment I would perhaps seek advice again because I was told that this Order has not been brought before the House yet so it cannot be amended, but when the time comes, I would like to consider section 4 because it shakes the whole foundation of what you are trying to do with meritocracy and you are going back to the old habit of seniority.

I know some heads might roll and you will have to make a gap between those who are there, but you better make the jump clean and let the public and the police know you mean business. If you want to be a commissioner, prepare yourself through the criteria here, set up a tradition, establish the criteria firmly, but do not vacillate as section 4 seems to do when you say that even though you do not hold these qualifications, which is the degree.

People talk about the university, but you have to go to university because that is where you get your ideas, your intellectual competence free of all prejudices, and operational and intellectual techniques, but you still have to come down to a degree in criminal justice and criminology. So after all, everybody up there is not armchair thinkers, we do a very important public duty.

You tell me now if you do not have those qualifications but with 20 years experience you could be considered. You could have 50 years experience as a bad officer. In fact, the experience does not really help you; it goes from bad to worse. We know officers in the police service—I do not want to call their names—but they are a waste of time and the Government may know that too. Why do you think the Prime Minister holds back the veto and his information about a certain appointment? He may know something we do not know. So years of experience should really be removed from this. It is included in the previous section, but you have standardized and made it into a meritocracy which is fair in the new era to modernize the police and I think section 4 in this Order should be deleted for the reasons I gave.

Mr. Vice-President, these are important Bills and it is, in a sense, quite unfortunate that we have to deal with all three at the same time because each one deserves fuller treatment by itself. There are a lot of implications and considerations that should be put into them in addition to the history behind these Bills.

There were about six reports based on enquiries; why has nothing been done? I suppose that in this evening of apparent goodwill to some extent, we would not want to go into the history of negligence and political irresponsibility. We have the Lee Report, the Darby Report, the Carr Report, the O'Dowd Report and nothing was done, and if you read the recommendations from them, you will see if they had been acted upon we would not have reached the stage in which we are today. [*Desk thumping*] So when we speak in this light it is because we mean well and know something about the history of things.

Sen. Dr. Gopeesingh alluded to it. In fact, the evolution of the police service from sheer colonialism to where we are and we are still having some remnants of colonialism. It is good to know where we have come from, where we are at, so we will know where we are going and this Bill seems to point a slight direction in that respect with some of the reservations which I admit are quite reasonably expressed by some of my colleagues and myself. But I prefer to take the step forward with some courage and hope that those in the Lower House recognize their responsibility.

Thank you, Mr. Vice-President.

Sen. Mary King: Mr. Vice-President, the Bills before us today are intended to improve the efficiency and effectiveness of the police service so much so that the Police Service Bill, 2006 when passed will completely repeal the current Police Service Act.

Mr. Vice-President, this is the second time in recent weeks that the Senate would have an opportunity to contribute to the serious issue of fighting crimes in our communities. The first occasion was when we started debate on Sen. Prof. Deosaran's private Motion on crime, so I do welcome the opportunity to discuss the crime issue. Since those few weeks ago, crime has become much more rampant, the outward and visible signs are the number of murders that have been committed in the past 85—86 days which I hear today have reached 102.

Now there is a situation where murders have become so commonplace that the police's blasé reaction that the murders are gang related appears to be some kind of global excuse or explanation for why we have failed to control our communities making them safer places. So the Bills before us, in my view, appear to add little to the current ability of the police service to fight crime, except that perhaps they may perceive psychologically, they may be convinced that with the passing of these Bills they may be better prepared or equipped. So it looks like a placebo to me at this stage. We do have a new ability to import foreign expertise which I am sure will help to strengthen the ability. At least we hope it will help to do so.

Mr. Vice-President, before I get into the discussion on the actual Bills, I would like to link the presentation to the discussion we had on crime a few weeks ago and I refer to what really needs to be done to effectively tackle the issue. There has to be a three-part strategy. The first two parts are that the primary and secondary responses should be about addressing other causes of crime, and the last one, the tertiary response, is about fighting or the curtailment of crime. This last one includes the detection, prosecution, penalizing and incarceration of the guilty where necessary.

That is the task of the police service and the Judiciary, but on that occasion, I referred to a quotation from Mr. Ian Blair who is a senior manager in the United Kingdom (UK) Police Service and they are also faced with the same dilemma as we are and he wanted to know what is his role and what is our role today in the 21st Century. Is it to fight crime or is it to fight the causes of crime? Is it to help build stronger communities, or is it to undertake zero tolerance? These are very basic questions. Not of how these things should be done or what priority we should give to each one. We are not discussing these issues, or what we should stop doing. Those were Mr. Blair's questions and he is a very senior member of the police service in the UK.

Mr. Vice-President, these Bills before us and all the other ideas that have come in recent times about the gun court and no bail for kidnapping for ransom, and the new DNA legislation which is long overdue, but these are the things about which Mr. Blair is actually complaining. The big picture is what appears to be the big picture for the police and the Government. We are only focusing on the tertiary response to crime and there is nothing on what we are going to do to fight the causes of crime, or help to build stronger families and communities.

Many of us have just returned from a workshop on parliamentary committees and we have learnt the importance that has been placed on them by other jurisdictions. Some countries have developed committees such as the Homeland Security and Government Affairs Committee in the United States of America, and perhaps it is time for us in Trinidad and Tobago to take a second look at our committee system and perhaps we should be setting up a joint select committee on homeland security and crime and this committee would then be enabled to address the issue in a holistic way but we would talk about joint select committees a little later as well.

On the crime debate we discussed the fact that drug crimes are a critical determination in all other crimes and the police euphemism that crime is gang related is really telling us that crime is drug related. Case closed. No action. So we really have to take care of this perception. This is what is coming across.

We have two main tasks. I see before us the first one is to connect the social value functions of our society, and in particular, address the empathic responses of our young people which are totally absent. They have no empathy for anybody, they will kill you as fast as they will look at you. So we have to address this issue which is a serious one among our families and young people, and we really have to seriously attempt to control the impact of the drug trade on our own crime economy and, of course, that also involves improving our communities which are continuously under attack and by improved policing and judicial efforts.

Mr. Vice-President, I do not think we can make any impact on the drug trade in this country if all we are doing is finding some cocaine and marijuana on the way to the North or on the way to Jamaica. Some of these finds can simply be quite deliberate to disguise what is really being transshipped, and I feel the time has come to identify the Escobars in Trinidad and Tobago. I understand they are not all in hiding, some know who they are.

To return to the Bills, I do see them as an effort to attempt to improve the police service but I think we have to look forward to a time when we would also introduce the primary and secondary legislative responses to the crime, hopefully sooner, rather than later. These Bills will not do it all on their own.

Constitution (Amdt.) Bill
[SEN. KING]

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The Constitution (Amdt.) Bill, 2006 on which I will focus mainly tells us that the main purpose of this Bill is to transfer most of the powers of the Police Service Commission to the Commissioner of Police—powers except the power to appoint, discipline, and remove the Commissioner of Police and the Deputy Commissioner of Police.

In particular, the Bill confers on the Commissioner of Police the control and total management of the police service and other related powers. And, in spite of the Minister's response to the Lalla publication, it has been said on several occasions that these powers had effectively been given to the Commissioner of Police via the constitutional clauses which allow it. Now if that has been the case, then I really find it difficult to see what is this formality in transferring power, because this is what the Bill is doing. Formally giving him the power will do for better policing if he had it before, or improve on crime detection. I really do not see these Bills alone will do that given that we had been told that he already had the power.

We do know that the Commissioner of Police needs the power, otherwise he cannot possibly manage the police service and, of course, the Police Service Commission needs to have the power to remove him or her for non-performance. But if we look at the system that we have presented here for the appointment of the members of the Police Service Commission, clause 4, new subsection (4) seeks to give the President of the Republic the power to nominate the members of the commission, of course, after consultation with the Prime Minister and Leader of the Opposition and these nominations are subject to the affirmative resolution of the Lower House.

Mr. Vice-President, I see two issues here and, of course, they are also repeated when we come to the appointment of the Commissioner of Police. The first issue is for some reason that escapes me, the persons in the Bill who are deemed to be concerned about the appointment of the Police Service Commission and the Commissioner of Police are the elected Members of the House. We of the Senate seem either to have no interest or are of no importance in the oversight of this management function in this country.

I see it totally different, as the Independent Senators have no loyalty to party, no declared political persuasions; we have no whip and no individual constituencies. As a matter of fact, the country is our constituency and I feel strongly that we should have had a part to play in the approval of these appointments. If we do not have a part to play, I would like someone here to redefine to me what is the role of the Senate, and possibly what really is expected of us, and what has been expected of us over the past years in this Chamber?

Maybe we had been deluding ourselves that our role in Parliament is equivalent to that of an elected Member save and except that we do not vote on money bills. You are here today to have approval of this Bill, otherwise you could not proceed without the Senate. So I just feel that we will like an answer on the reasons the Senate has been excluded from this very important issue.

The other issue that has already been aired in the other place is that it has been said the Lower House, or even the Senate for that matter, is not the appropriate place to discuss the pros and cons of each potential appointee or a nominee in his/her absence and one normally is disinclined to discuss any person in their absence, and as a matter of fact, it is frowned upon here or the other place and yet, here we are today formalizing something that is far from best practice in this Bill and I certainly could not support the fact that this is the way we are going to appoint senior commissioners.

Mr. Vice-President, most of us have all been involved fresh from discussions on the parliamentary committee systems and I am sure that by now, if not before, have had the potential value of joint select committees of both Houses in doing the detailed work; the oversight of the Executive, detailed assessment and development of bills which happen in the other jurisdictions and, of course, approving presidential recommended candidates or not approving candidates.

One of the sitting MPs has said that the parliamentary committee is below the House as a whole and cannot make decisions for the House, and we only have to look at other developed jurisdictions not only the United States of America, but we had the experience of the Canadians with us in Tobago and their committee systems.

Due to such a high volume of work and the complexity of the work of the Parliament, the US Senate is divided into 20 committees with 68 subcommittees and we heard from the Canadians that their Parliament is divided into 24 committees. Also, those committees, of course, have control of their staff and their members, and hiring and firing of staff. So the committee system is very developed and does what they call the “donkey work” of the Parliament. By the time they get back to the Parliament with a bill or whatever the issue had been, recommendations are made.

So Mr. Vice-President, I would like to suggest that we should amend clause 4 new subsection (4) of the Bill that a joint select committee be established, chaired of course, by a Member of the Government, to reject or confirm the presidential nominations, and given our disinclination to discuss a person in his or her absence, I suggest that these committees should also meet in public with the nominees present.

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As far as the appointment of the Police Service Commission is concerned, I would say the same system be used for the appointment of the Commissioner of Police—that it should be addressed by a joint select committee and I would suggest an amendment to that effect.

Now let us just look at the order of selection. The selection process for the Commissioner of Police and Deputy Commissioner of Police, I think this is where the sting comes in the whole process. I think we have developed a seven or eight-step process where the commission advertises vacancies and receives applications. There may be three different selection committees appointed by the President to give advice and make recommendations, then the selection groups deliberate and are instructed to select eight suitable candidates and this assumes that at least eight persons who are qualified would apply and I think perhaps we should go back and look at that and make a proper amendment that would make sense. You may not always have eight persons who will be qualified.

The next step you say is that the commission shall use the recommendations of the three groups, and using the same selection criteria will prepare a list of 10 candidates, that is also assuming that you will have at least 10 qualifiers, and I think we really need to look at that and perhaps make a qualifying amendment.

Then they suggest the services of an experienced firm conducting assessments of top police managers to conduct the process. I wonder how many firms we have in the region that are capable of this. Or have we already assumed that this would be an international firm? We would like to know what you are thinking. Then we have the top five being recommended by the firm interviewed by the groups, and each group would individually submit their rankings.

Mr. Vice-President, I have been involved in management for many years and I have never seen such a cumbersome selection process in my whole life, and all of this simply looks like it is to replace a Prime Minister's veto. I really feel they have gone beyond the Bill.

Sen. Joseph: Thank you very much for giving way. Just to inform the hon. Senator that while the selection Order is not before us, the comments are useful because in the other place, concerns were also raised about the lengthy process, and the intention is to look at it to see how it can be shortened and at the same time satisfy the requirements as they related to consultation. So your comments are well taken, and as I said, it is something that would have to be brought back. It is not currently before us as part of the discussion, but your comments are taken.

7.30 p.m.

Sen. M. King: Thank you very much, Mr. Minister. When I see it attached to the document I assume it is before us. However, if we look at that process and we look at how we select the Chief Justice, the Director of Public Prosecutions, even the President, all who hold very, very senior and important offices, I wonder why we have such a selection process. It is really a selection fiasco that still gives the Government, through the Prime Minister and the Whip, the final say.

So I think your process certainly needs to be streamlined a bit. I would have suggested that all the applicants' names, CVs, et cetera., be forwarded to the international firm and the international firm would do its selection of the top three and then they would come back to the commission's recommendations which would come before the Parliament. I think we should remember we are appointing a police commissioner who is really a CEO in the private sector, and why the carnival. So you would streamline it, I am sure.

On another note, at the end of new subclause 8(c) you have a reference to Police Commissioner and I just want to quote on that item. It says:

“...after giving him an opportunity to be heard;”

Surely, the senior women in the police service, or even outside the police service now that we can appoint from outside the service, would not be debarred from becoming or aspiring to be the Commissioner of Police or the Deputy Commissioner or Police. So I would suggest a recommendation that it should read:

“...after the Commissioner or Deputy Commissioner has had an opportunity to be heard.”

Sen. Joseph: While I am not a lawyer—thanks again for giving way—I am advised by my learned legal colleagues that in the Interpretation Act where “he” is mentioned, it also refers to “her”.

Sen. M. King: So after giving “her” the opportunity, would that also be in the Interpretation Act to mean “him”?

Sen. Seetahal: No.

Sen. M. King: Let us be fair: “S/he”, to please both of you.

Mr. Vice-President, I think I have already mentioned on another matter, the concern that the selection procedure for entry into the police service, that is from the lowest ranks, really curtails the kinds of recruits that can be brought into the service and hence I am pleased in clause 22(1) that the commission may, having

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regard to certain qualifications and skills et cetera., of a person not already in the service, nominate that person according to the President's Order, of course, for contract. And, of course, I will go back to my stance that even in these conditions it should not go to Parliament but to a joint select committee.

Also in clause 22(2), the commission can also do the same for a person who is not in the service, appoint on contract such a person as a police officer. I think that is a step up, an improved position, and I think that is a very good addition because we cannot be constrained by what we have today.

So given clause 22(1) and (2), besides allowing the Commissioner to immediately include police from the UK, et cetera., it also would give our own people opportunities, people who have already been trained, who are graduates of the university in the field of police work and criminology and all of these other things, staff which is really crucial to this world of fighting high tech crime and crime fighting tools—and I was going to suggest to my learned colleague on my right that perhaps he should take up the challenge to help and join the police service.

In closing, there is a lot more to be said on these Bills but as the time is late and lots of other colleagues are waiting to discuss the three Bills before us, I thank you very much for the opportunity to contribute.

Sen. Dana Seetahal, S.C.: Mr. Vice-President, I do not intend to be long because signs have already been made to me as to the lateness of the hour, but I will not be constrained—

Sen. Joseph: Not by me.

Sen. D. Seetahal, S.C.: From the opposite side. But I take it in good spirits; I do not think they mean to muzzle any of us. I think that everyone recognizes that it is 7.35 p.m. and people want to get on and about the hectic—whatever they do in the night. So I will try to be short.

The three pieces of legislation before us are obviously intended to shake up the police service and you heard my colleagues and other Senators speak about how it is proposed that this will happen. I do not propose, as already asked by the previous Chair, to repeat what they have said. I just want to make a couple of, hopefully, different points. Let me say at the outset that I wish to congratulate the Minister of National Security for certain positive signs in the fight against crime. Why I congratulate him is, previously he has had to bear the brunt of the criticism,

including some of those coming from me, for the increase in certain crimes in the last three or four years. But I note that in respect of certain crimes—a general word I am going to use—dealing with, one, drugs, kidnappings and crimes within the prisons, there have been improvement; there have been positive signs.

Insofar as detection of drug offences is concerned, I will not call names but as far as I know, there are at least three persons who can be said to be involved, or have been involved, in trafficking drugs in a serious way in this country who are now not free, let us put it this way. In respect of kidnappings, and in particular kidnappings for ransom, I note that for the year we have had no kidnappings for ransom of any serious nature, and I think I am in a position to know this. There might have been, what have been deemed to be kidnappings, was just the taking and carrying away, not the kidnappings for ransom. I do not know that the Bail (Amdt.) Act denying bail to kidnappers may have been responsible for this, but I feel sure that there are other measures put in place, whether in terms of the detection of crime or otherwise, that have resulted in that. So I think the Minister can take a bow on behalf of his officers for that.

The third point is what is happening in the prison service. About three years ago I made submissions or at least contributions on the need for prison reform. Several times I asked pointed questions of the Minister. At the time I felt that I got no satisfactory answers. But I have to say that of late—and I have to give credit, I feel, to the Commissioner of Prisons for this—there has been tremendous improvement in the detection of criminal activities within the prisons. I know that from my own knowledge and from what had been reported in the newspapers in terms of certain persons being charged for trafficking offences in the prison, including women.

I was in the Arima Court the other day and there was a woman standing up there looking lost and I turned to assist her. She was charged with having brought in some drugs in the heel of her slippers. I still assisted her, but with less alacrity, I have to say, when I found out. The fact is that there are arrests being made for that kind of activity in the prison that you did not hear of before.

Having said all of that, may I just make some pointed mention of things that I think need to be said in relation to the legislation before us and also in relation to matters within the police service? The first thing I want to talk about is this assessment centre. Under the legislation that is proposed, there is to be an assessment centre, which sounds very good; it sounds like some department of the University of the West Indies—God forbid; you know these academics. But this assessment centre is supposed to deal with promotion to and within the first

division. That will be from the rank of assistant superintendent up. So you have this assessment centre which has this power; you have, however, nothing in the Bill as to what the membership would comprise. I know we are being told that we would hear about it; it would come, but I find it passing strange that we are approving a centre that has all of these powers and we know nothing of it. In contrast, the Promotion Advisory Board, we know who the members are and the Promotion Advisory Board is merely dealing with constables to inspectors. So you also have a centre which deals with the suitability of promotion. You are talking about criteria that would be prescribed, a lot of matters. You are talking about procedure, criteria and membership. Everything is to be prescribed. We know nothing about it and they deal with the most senior officers. I find that wanting, I have to say.

In moving along, I come to contract officers. When this first Bill was drafted in 2001 and it was put forward to us—it was the previous administration and then it was brought again—I had strong resistance for this proposal because I thought—and it is still possible—that any politician of the day could finger his person and have him made the Commissioner of Prisons or any officer. If you have a person that you want to, just like you have maybe the 20 per cent they talk about in the Concordat, you could put in your people. I perceive—I am saying; I am not saying it will necessarily happen—that as the danger of this.

But one must look on the other side, and the fact of the matter is that this proposal can be used, and is useful, for hiring foreign officers who can bring a lot to Trinidad and Tobago. I am not talking about officers, as one newspaper mentioned, who would be patrolling the streets of Trinidad and Tobago, along with our officers. What do we want that for? If we wanted beat cops, we would just take all the constables and throw them on the street or make all the SRPs beat cops. They are of no real use in this day and age in the fight against crime. They present a presence, and that is the presence we have at Carnival time and other times. But if we are going to hire officers from abroad who are trained technicians, who are going to bring expertise to us, who are going to offer knowledge of detection of crime which is sadly lacking in our police service—not only that, knowledge and experience and how to give evidence that is so lacking—I am finding, to my sorrow more and more now, that it is a good thing. I think it is a positive thing that whether it is 39 or 390 officers—I mean, I do not think we could afford 390 United Kingdom officers with the value of the pound, but perhaps if we could, it would be a useful thing to have those officers infuse some professionalism in the police service.

This is not to say that Englishmen and good old England are necessarily better than what we have, or better at all, but the kind of officers, I imagine, that we are going to hire, the kind of expertise that we are going to bring, would probably provide that professionalism, because that country has a longer history of producing police officers of that ilk. So I do think it is a useful provision and it would serve us well. But, of course, like everything else, anything is subject to abuse, and that is what we have the courts for, so I do not have to worry about it too much. Any power that is abused can be challenged. So bearing that in mind, I think I would not worry too much about it.

I want to refer to another provision in the proposed Bill, and that is clause 64 which is now amended. By the way, this Bill is really a change from the previous Police Act that we had. So it replaces the Police Act which talked about a lot of things and it includes many things that were not there. But one thing that it does repeat is the question of right to prosecute and the recognition of police prosecution. So we have that here, but I see that there is a change now, so that it says:

“...any police officer of or above the rank of sergeant may appear before the Magistrate or Justice...”

I would like to know why. I could imagine the answer would be that we want experienced persons and that sort of thing, to prosecute, but I have to tell you from my experience, most of the police prosecutors in this country are below the rank of sergeants. They are corporals, acting corporals, or experienced constables. So we would probably have a dearth in police prosecutors, and most of the prosecutors in the Magistrates' Courts, are police prosecutors. The Director of Public Prosecutions' officers only prosecute in the Magistrates' Courts when there is a murder, a kidnapping or some complex case. Otherwise, in every single one of the 40-odd Magistrates' Courts there is a police prosecutor.

I think that something has to be done about that. I do not know where you are going to find people trained, or you just draft in inspectors or those police officers who are lawyers you make them prosecutors immediately, which is not to say that they can prosecute because they are lawyers. So that is an issue that would have to be addressed. I know the reason but I do not think that in real life this is going to work out. Essentially, that is what I have to say about the Police Service Bill.

Insofar as the Constitution (Amdt.) Bill is concerned, there are many things that could be said but I really want to focus on a couple matters and one is this: At clause 5 there is an amendment to the section and a creation of a section 122(A). It talks about membership in the Police Service Commission. It gives you circumstances

where a member would no longer be a member. His membership would be terminated. One is if he is convicted of a criminal offence in any court. Now, that could be a problem there. What do you mean by a criminal offence? In certain legislation, you say a criminal offence where the penalty is six months or more, or one year, but if you just say a criminal offence, you stand the chance of a traffic offence being deemed a criminal offence. Anything like that is a criminal offence; it is a crime in the general definition of crime. Nobody can tell you here that a crime is only one where the penalty is one year or more. A criminal offence is an offence against the criminal law of Trinidad and Tobago. The Motor Vehicles and Road Traffic Act is an Act which is defined that way. So there should be something added on there.

I dare say with the haste to pass this legislation that it is probably going to be said that we would amend this later on to make it clearer, but at some point in time this must be made clear; you must say this. Anything could be a criminal offence. An offence under the Integrity in Public Life Act could be deemed a criminal offence too; a lot of things. An offence where you sell goods more than two cents above the value could be a criminal offence. So you need to say the kind of criminal offence you mean, because a lot of people could have their appointments terminated. That is all I wish to say in respect of the Constitution (Amdt.) Bill.

Insofar as the Police Complaints Authority Bill is concerned, let me say that persons who have been in that Police Complaints Authority have complained over years and years about the lack of enforcement power of the current law. Some of those persons have said to me that finally the Police Complaints Authority is going to have some teeth and would be able to do something. Having said that, let us not confuse what the Police Complaints Authority is going to do with discipline within the police service. The Police Complaints Authority is an external authority to whom any one of us could go and make a report and say: "Look, that police officer in St. Joseph, when I went to make a report, he refused to take it"; anything like that, where you are complaining about many things, including criminal action, where you do not want to go to the regular police. But it is an external thing. There is nothing in the Act addressing, in my respectful view, discipline. You have two sections just talking about discipline in a general way but nothing addressing how this will be done. This is under clause 23, where it says:

"In the exercise of the powers vested in him... the Commissioner shall comply with the procedures set out in regulations."

That is for discipline and that is it. I do not know if the Senators know here what happens with the disciplinary procedures in the police service. It is practically dead; it is broken down. I could tell you of two cases, one is a client and one is not. One person was—I am trying to disguise the person—pursued in the streets about a year ago and there was an investigation and he was suspended. He was the victim. That is over a year now and nothing has been done. He is suspended with pay. I said to him: “Why don’t you go and register for a course in UWI, or take some kind of thing and enjoy your free time, because you have nothing to lose? You are being paid for however long—you don’t know, free. You have time. You can lime.” I was not telling him to lime; he had limed already for three months. I was telling him to make some use of his time.

Imagine this, we have a police service, a discipline problem and somebody is suspended on full pay. He is never charged with anything, but an investigation is pending, because I wrote and I asked about the situation. An investigation is pending, my foot! I knew from the second week that there was an investigation done and a recommendation was made that there should be no charges laid because he was the victim in the matter. But in whoever’s wisdom—maybe it was the Commissioner of Police—it was decided that he must stay there for going about the streets and engaging in the fight.

That is a problem we would have with this Bill, because if we put all this authority and power in one person, if right now he cannot manage it with the power that he has, or at least knows he has, because we all know he has more power; if we give him all this power, whoever that individual is—I do not mean Mr. Paul; I mean whoever, and he has to do all of these things—he is going to be dealing with trainees and if a trainee misbehaves he summarily dismisses her—and there is a problem with that too. Some years ago we had a Commissioner of Police whose sexual behaviour was suspect in terms of the very trainees. So we have to be careful that if you say the police commissioner can summarily dismiss people, that he dismisses them summarily for the wrong reasons. But, again, we have the law, thank goodness.

So the point I am making here, however, is if you put so much power in one person and he cannot manage it now, how is he going to manage it? He has deputies and assistants, but if you cannot trust your deputy; you cannot trust a lot of people—people seem not to be able to trust each other at that level—what is going to happen? So we have to look at those things and we have to start calling a spade a spade, and if you have a deputy or assistant commissioner or so, that you do not trust, fire them and move on. By the way, I see in the legislation there is a

reference to “the Assistant Commissioner of Police”. Just so that you would know, there are three assistant commissioners. I do not know if there is one person called “the” that the legislation meant, but there is no “the”; there are several.

That is one thing in terms of discipline. There is another thing. There was one officer charged with obscene language, so the case is going through the merry courts of Trinidad and Tobago. Meanwhile, he has done three years of law and is finishing law school, still on suspension and the case is finished. It went to appeal and it is done. I mean, I admire that and I think it very good for him and, obviously, he is going to get all his back pay when he eventually retires, because nobody has bothered to finish the matter. He has a two-thirds suspension, or whatever it is, so he is going to get that one-third, and it is a good way to start off his practice.

But this is the nonsense that is going on in the police service and there is nothing in this legislation that is going to change that. I mean, legislation, of course, cannot change everything, but if we are touting this as the thing to do and if we are talking about the commissioner and we are going to have a God who is Commissioner of Police—because after that selection process is gone through, the person who is chosen there would be a God; he has to be. [*Interruption*] Well, almost like, the way things are. And I hope his salary is going to reflect that, if we want to have a pure person. The point I am making is, something has to be done about the disciplinary procedure; something has to be done about the process and there is nothing in the legislation. What you have now in terms of the statement that regulations would be dealt with, is unclear and it is not good enough.

Let me make two more points. I was talking about discipline but let me talk about training. I know it is intended that you would have a revamped training. I know it is said that you would require better qualifications to get into the police service, but I asked two years ago—and I have to say something critical of the Minister in this regard—for the syllabus. I reminded him about twice and I have not yet got it, so I do not know what the syllabus is in that police service. But when I have statements from police officers where you say to a person: “Do you know so, so, so”, and “know” is spelt “no” instead of “know”, I have to wonder about what kind of training. If you have “fourth” spelt five times as “f-o-r-t-h” instead of “f-o-u-r-t-h”; if you have officers who cannot give evidence, who do not know basic things, and about 90 per cent of the matters that I know of, the police officers do not carry around their pocket diary. There is nothing to show that there is a record in their pocket diary. I do not know if you know this, but it is a requirement of their standing orders. Do you know how many cases go down the drain because a police officer does not bother to put an oral statement in a pocket diary, because the

authorities say that you can make up an oral? Of course, I can say: “He said I did it” or “I am just guarding the man” or whatever it is, but if you put it in your pocket diary on the same day, the chances are it was said. But none of them do. Do you know why? Because they are too sophisticated to do that; to stop in the middle of this chasing down a suspect and hearing him say anything to bother to write that down. They are too sophisticated or they are too stupid, because you tell them over and over again that it is necessary evidence and you do not have it. You do not have it there; you do not have it in the station diary and cases go down the drain because of the idiocy of many police officers.

Let me say this, Mr. Vice-President, and through you to the Minister, that many of those people are in the elite units. It seems to me that this so-called elite unit just does not have officers who can give evidence. In other words, it seems to be part of being the elite unit that you cannot give evidence. It seems to be like a training thing: “Aye, you cannot give evidence, boy, come into SAUTT”, or whatever it is. That is the thing, because the ordinary units that were there like homicide and all of that before, they knew how to take a statement; they knew what is an authentication; they knew how to do a record; they knew how to paragraph; things like that, but it is just so distressing sometimes, I just get frustrated. I have to tell you, if I am doing any matter for the State and I have to deal with elite people—and you know, the talk going around in the police service is that the elite officers get in to be elite officers because of contact. That is the talk.

I asked somebody: “What unit are you in? Are you in one of those special units” He said, “No”. I asked: “What is the difference with you and the special unit?” The officer said: “You mean, other than the \$5,000 tax free, the difference is I could give evidence and I know how to prepare a report.” You see, that is the kind of thing. When you have all these things underlying what is going on in the police service, how could you have real change?

8.00 p.m.

We do not want police officers moving out one day. How embarrassing! In the St. Joseph Police Station they have to move and when you see the condition of that police station which no animal should live in, then you know why some police officers would act that way. People behave like the environment they come from. That is a poor excuse. It is not an excuse. It is a dung heap. Sorry to use an unparliamentary word. You need to look at that.

The final point is in terms of how effective these Bills would be. In this Parliament, I think that I have asked about four times about annual reports from the police service. You get them in Bahamas which has a quarter of our population; in Miami and any reasonably developed place. Bahamas is more developed than we are. What is the value of that? The value is that we can have a measurement of crime. We can see pie charts. We can probably do some profiling which is used for the detection of crime. We can have indicators and see what is going on in crime. I do not know if people here do not want us to know. It is difficult to get normal statistics from the police anywhere. I do not know why it is such a difficult task to produce a report and get something done so we could know what is going on.

I heard Sen. Mark say that there is a backlog of 500,000 cases in the Magistrates' Courts. That might be the figure he was given but it would be very difficult to actually contemplate 500,000. It would mean that everybody in Trinidad and Tobago in some way would be involved in a crime as the accused, the victim or the witness. If we had proper statistics we would have been able to see that perhaps there was one accused in some cases charged with a variety of traffic offences. Many of them were alternative offences so they are repeated, or those crimes were called, like my matter is called every day or several times for the month which looks like many. You would have a proper identifiable number and know that there are so many charges of fraud. You do not go to the Fraud Squad and ask: How many? You would know how many cases are being disposed of at the Magistrates' Courts or in Tunapuna there were 12 cases for the month and in Arima 100.

You might want to know what is going on there and we can deal with the problem. We cannot unless we have information. The police service has been consistently—I am not saying that it is the policemen. Whoever it is, we have not had reports from them. We have had reports from everybody else. Why can we not ask every year? Sometimes you ask and get fed up of asking. I am asking again now. Why? Why? Why? We need it. It is time for it. If we are going to have a professional police service we have to get it. I know that people will nod at me. If next year at this time I have to say this again, by then, I will really lose my temper. Not that I can do anything about it if I lose my temper. You never know.

Thank you.

Sen. Parvatee Anmolsingh-Mahabir: Mr. Vice-President, I will be very brief. First of all, I commend the Government for its initiative in bringing Scotland Yard to assist in the fight against crime. We partner with international countries in the realms of trade, education and so many other areas, so why should we not

partner with them in the crucial area of national security? We certainly need all the assistance that we can receive to reduce the level of crime that is plaguing our country. Their expertise and objectivity would be welcomed.

Many issues have already been raised so I would not repeat them. There is one area which must be emphasized and that is the area of training. Because of the autonomy each officer has in the discharge of his or her duties in respect of the discretion of each in the power of arrest and the use of force and nature of interaction with the citizenry in respect of the various offences including traffic violation, there is urgent need to intensively train each officer, especially in the lower ranks, to execute such duties with the required acumen. It is against this background that the following recommendation should be mandatory and not left to the discretion of the Commissioner of Police.

There should be mandatory training programmes. All police officers in the Second Division should undergo on-the-job-training at least every 18 months of service, after being confirmed as a police constable. There should be recertification programmes. At the end of the second three-year period of service each police officer should be recertified as competent to continue his or her duty, especially in the Second Division. A certificate should be awarded on the successful completion of the training.

The line level of officers such as constable, corporal and sergeant interact more frequently than the other ranks in respect of customer services. Consequently, these officers need the skills and capacity to perform, utilizing best practices and acceptable and desired standards of performance. Therefore, these primary line officers should be given special attention in respect of incentives and training, especially in communication skills among others. There is a dire need to transform the police service into a new acceptable standard of behaviour in the public view. A new ethos if you wish.

With regard to retirement on page 40, clause 74 speaks about it. All systems need an outlet or exhaust to release undesirables by virtue of the fallout of the competitive system of promotion. Obviously, some would be left behind and should be allowed to leave earlier with some dignity and respect and be allowed to make valuable contributions elsewhere. In clause 5(5), it is at 55 years or so. Perhaps, we should look at after 20 years or at the age of 45 years whichever one is greater.

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With regard to the management structure there is need to revisit that area. Presently, there are 10 ranks in the Trinidad and Tobago Police Service. This division of labour must be consistent with the duties of each rank and the necessity of such a tall structure. My research has unearthed that in the Second Division, there are the constable, corporal, sergeant and inspector. There are four ranks distributed among 98 per cent of the entire police service, whereas for the remaining 2 per cent which is the First Division, there are six ranks such as Assistant Superintendent, Superintendent, Senior Superintendent, Assistant Commissioner of Police, Deputy Commissioner of Police and Commissioner of Police.

[MADAM PRESIDENT *in the Chair*]

There may be need to flatten out the structure in the First Division. For example, we can have the divisional commander and assistant divisional commanders because there are duplications therein. The ranks of Assistant Superintendent, Superintendent and Senior Superintendent can be condensed in new designations of Divisional Commander and Assistant Divisional Commander. The other branches and sections should likewise be Branch Commander and Assistant Branch Commander, et cetera.

With respect to the executive, there should only be chief executive officers, that is the commissioner and deputy commissioner. There is no need for assistant commissioners. If we examine the fundamentals of those duties we would note that there are innumerable duplications. That managerial structure needs to be revisited.

I know that this Bill has raised expectations of the citizens and they do hope that in due course, there would be a reduction in crime.

Thank you.

Sen. Brother Noble Khan: Madam President, thank you for allowing me these moments to share on what is before us. For quite some time we have heard the history of the Minister of National Security who presented the Bill. I enjoyed hearing his presentation. It deals with a fundamental change as far as our country is concerned. It has shown a way from a basic philosophy upon which our nation was founded. It is in the area of the police, teaching, public and legal service commissions that had informed at that time what had been accepted and found itself both in the Independence Constitution and Republic Constitution; that question of a perceived independence insofar as the roles these commissions were supposed to play. For quite some time we have been asking for constitutional change. I do not know for what reason, but it seems to me that we have done precious little in a sort of organized approach as far as the Constitution is concerned.

Today, an attempt is being made to make some changes. I wanted to use the word “tinker” with the Constitution but I would refrain from using that word to bring about what I perceive to be a genuine attempt to address the situation in which we are as far as crime is concerned. We can easily identify with our brothers and sisters outside at the wrong end of it with the shooting, killing and “tiefing” that we know. There is quite a bit of crime. Possibly, those with white collars I do not know how far they would be judged. An attempt is being made through the process as far as the police is concerned to deal with it.

I would like to mention that this change we are looking for is one that was anticipated. For some time we have been speaking about managerial emphasis and there appears to be a cogent attempt to bring it. We have heard much about training. I recall some years ago the question of staff training for the services. This was one initiative that would have dealt with the quasi military end of it. I do not know what became of that. At that time the impression was to build a cadre of people who would have carried the load. I suspect that it is no longer around. That was just one initiative that went the way of all flesh, as some will say.

This has raised in my mind with an element of skepticism, that we are addressing a problem perceived to be crime which is highly geared as far as behavioural patterns are concerned with part of a legal initiative. Law is being put on books and papers. We know even by the prevalence of crime at such a high rate it could lead to the skepticism to which these laws are looked upon, not only the criminal laws, but laws per se. The general feeling you get from a great portion of the population is, “that is that, we going so”. The \$32 billion we had as a budget they do not see themselves as being part of that. They do not feel a belonging. When they want they go out and take what they want. This is their outlook. The process of living means precious little when the hopes and aspirations from the start of our nation seems to have gone awry. “If I get shoot, no big thing; if ah shoot that is the way it is.” This is the kind of society that we have created and we are trying to address with this type of law. I do not know how far that will go. If you are thinking of addressing crime with a piece of law it is more complex than that. There must be some holistic approach to get down into so many other areas.

Very early in the budget debate I had mentioned the whole overlook of our society is one that we should have taken. Some attempt was being made through Vision 2020 and quite a bit of work was done, but there seems to be an estrangement between what has been discovered there and what we are supposed to put in place in meeting these challenges today. While this initiative is one that impinges on the Constitution, we can give some credit to how the mechanisms

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were arrived at. I always felt that the elements of cooperation, facilitation, collaboration and participation in decision making we should espouse. It was hinted at but I do not think sufficiently enough, that the participation of the people in the change appeared to be lacking.

There seemed to be tight cabals—little groups, although they might have positions in the society—that came up with this. That might be well and good. They may come up with the best of plans but unless they are fed back to the society and there is a feeling of belonging, the question of its success leaves much to be doubtful of. There may be areas when we look at our approach to governance and how we interact, there might be need to look at it again. Very often selfishness is what you may feel we are on as far as planning is concerned because this is what emerges. The question of power; the fact that we are in here with certain perceived power and even on the Government's side where power is supposed to be as far as the Constitution is concerned, there is a high amount of arrogance.

Somebody had mentioned the question of power. One of the most powerful men that walked on the face of the earth had a very concise definition as far as power is concerned. We have heard about Descartes, Hobbes and the great English. As we move further east I share these words and remind us that power comes from the barrel of the gun. If there is a display of this and an example of that, that philosophy is by far in our society in a practical way. If we do not pay attention to these things I do not know the type of society that we would be building.

To a great extent I had worked in the public service and gone through some of these documents. On the question of accountability and management, I strongly urge not within the documents but to bring the managerial emphasis into play the whole budgetary process which we know had started from colonial times. There is need to review as in so many other areas. Without these supportive areas—you get the impression that even what we are doing today, we know its urgency—it would be a passing phase.

After 56 years what could we show for it? To come with a piece of legislation like this is sad. You could understand why it is happening. We also see this overflowing in other areas when we interact with people. We are trying to address a question with change in the law. I refer to the question of NHA. Recently, a law was brought in the House as a parallel to what is here. They used to move NHA from one building to a next. One thought that was a strategy of leaving the problems when they left the other building. We found afterwards that they followed us. We made a new organization. We would see the emergence of these

organizations. I do not know if there is a strong correlation between the emergence of these types of organizations and instruments as we have with the flow of funds. We must not make ourselves viable and economic by parameters that have no bearing on human feeling. There are people here who feel the soul of it because of where they come from. I make reference there because you are bringing law to address a social problem.

Policemen are human beings like us. They are our brothers, sisters and children. So much is heaped on the commissioner even as it was delegated. The claim is that he or whoever occupied that position was not able to handle it. One would like to shift responsibility or blame to that focal point. Who is responsible for giving them the sinews, funding or means? Sen. Dana Seetahal just mentioned the question of the St. Joseph Police Station. Think about Pacific—excuse me please, Madam President; Pacific is Besson Street Police Station—and the one at Maracas. They are doing construction on the one at Belmont. We are still thankful that something is going on. Think about what has taken place in these areas and what still exists.

These things have been there for quite some time. We do not blame anybody. It is not my style and I do not think that it is the way we should go. There are problems and we should deal with them by collaborating, participating and partnership. There is a feeling of a little bitter taste in your mouth that here we are changing a constitution, interfering with something that is sacred, but we are not doing it in the proper way. When we go through the documents with the structures coming down there are so many gaps that you get the impression that not sufficient thought went into it. This is regrettable.

We look forward to seeing what constitution would be coming forward. Interfering or improving on what exists at the moment has implications for the others. I refer to these other forms of constitution. These thoughts I share for whatever they are worth. We would like to see them among many of the other initiatives that would be addressed on the issue of crime.

Thank you.

Sen. Basharat Ali: Madam President, a rather long debate came about because of the three Bills before us and because of a trade-off which was the removal of veto power of the Prime Minister for all of this. When Sen. Dr. Eastlyn Mc Kenzie asked, what is next or who is next, I think that that is a relevant question. Is it the Public Service Commission? That is where there is a lot of veto power by the Prime Minister. Maybe we will see it there. Is it for the Statutory Authorities

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Service Commission? It looks like short of having to redo the whole Constitution we might be meeting here quite often. These Bills have not been on the legislative agenda as far as I know, they were only presented to us in January this year. We can be in for a rough time. I do not know. I am sure that Permanent Secretaries would be retiring and the same question of veto power for the Prime Minister would arise. That is the introduction I see to it. I do not comment further on it. We have gone through the Act.

My view is that the Senate has been marginalized in the whole process. I think Sen. Mary King has raised it and I raise it again. The Independent Bench represents the only people who are not party affiliated. At least, I think so. I certainly am not. We do not caucus. When we come here we come with what we consider to be our personal views and vote with our consciences. When we vote yea, nay or we abstain, it is an independent vote. This is why I feel rather unhappy that in many of these things up to the next step in this process, the Senate is totally ignored, not even marginalized.

Today, they may have required—some people are absent—some of us because two of these Bills require a special majority; one three-fifths and the Constitution (Amdt.) Bill two-thirds. That is the background to what I have to say.

I intend to stay primarily within the Bills and not comment beyond that. I will not speak on crime. I will go straight to the Constitution (Amdt.) Bill. In clause 2, can the Minister advise us on how soon can we expect this Bill to be enforced? The proclamation is the next step in this. Otherwise we are nowhere. This applies to all three Bills.

Clause 4, the amendment to section 122 of the Constitution relating to the Police Service Commission, the first Bill included subsection (3) which said the chairman or deputy chairman of the Public Service Commission would be chairman of the Police Service Commission. Subsection (3) was not deleted or repealed until last night. There are five members for selection. If I read it correctly, the President will nominate five members after consultation with the Prime Minister and Leader of the Opposition. The next step is to send a Notification to Parliament for each member. We are talking about five Notifications. If I am not correct please stop me. That is how I read it as it stands here now. Suppose out of these five notifications there was a negative for one, what happens then? Do we go back for all of them or just for that one? Four members could be a quorum. Does the amendment or system kick in while we wait for the fifth one? There are four and the President in his discretion can appoint the chairman. You could have a working Police Service Commission if you have one non-affirmed person.

8.30 p.m.

I am just wondering whether that is the mechanism that is going to work, so that one does not have to wait and then come back to Parliament to go through the whole process to select or to appoint one further member of the Police Service Commission. I would like the hon. Minister to react to that when the time comes.

I skipped out the next item but I did have one little note there. Let me say in looking at this, I have a number of friends who are very much involved in the business of human resource management—they are specialists in that field—so I have a lot of persons with whom I can speak. One of the suggestions in terms of the qualification of the members was that instead of sociology, and I gather that the Prime Minister right now is not too enthused with sociology, after what was reported from one of his addresses to some conference—sociology at the UWI, Trinidad is what was under attack. The suggestion is that sociology as a qualification may be too restrictive. A broader terminology will be behavioural sciences or social sciences which will encompass sociology. It may be a bit too late to change that but it is a suggestion that is there from a person who knows about job specifications and qualifications, et cetera.

One other point, Madam President, having changed the basis of the chairmanship of the Police Service Commission it may be that the powers that be, or maybe the President, will have to go back to the Salaries Review Commission because under that arrangement if you look at the numbers you would see that the Chairman and Deputy Chairman of the Police Service Commission do not get a very large pay on the assumption that as the Chairman of the Public Service Commission he is getting quite a big salary. Madam President, I raise that because it is a possibility and you may have to look at it.

I did not have any problem with the new section 122A. Going to clause 6 which is section 123, the powers of the Police Service Commission, I am pleased that—in fact, they have given the Police Service Commission some work to do in that any appeal from the decisions of the Commissioner of Police would be subject to appeal to the Police Service Commission.

Sen. Seetahal spoke about summary dismissal by the Commissioner of Police of any officer, so that officer, in fact, could now go to the Police Service Commission and appeal the decision of the Commissioner of Police. I believe it was said also that the decision of the Police Service Commission will be subject to judicial review. I believe that is what I heard the hon. Minister say in his presentation.

I note that the two Criteria Orders, one for qualifications and one for selection process for positions of Commissioner of Police and Deputy Commissioner of Police, would be subject to negative resolution. This might be our only opportunity to have an input, because if it goes for negative resolution we might never see it again; that does not prevent it from being put into practice.

As regards the draft orders themselves, I have looked at them and I got some good feedback from people who are versed in that process.

With respect to qualifications, it was thought that the list was too rigid and that there should be a little more flexibility. For example, I was thinking, suppose you have a person who has a degree in forensic science, he has not got any of these qualifications but he has 15 years of service and I am sure if he is moving up in responsibility then he would have been trained in these particular disciplines listed here: law, criminal justice, criminology or police service management and therefore the suggestion is that we should be flexible; widen it. It is proposed, in fact, that “consideration may be given to outstanding candidates with degrees in other disciplines, combined with specialized training in any of the disciplines mentioned at (i) to (iv),” so this is a (v).

I tend to agree with Sen. Prof. Deosaran that the alternative of “20 years in lieu of” should not be looked at, at this stage. If an officer has been there for 20 years and he has no qualifications, et cetera, I think we are playing the losing game and in that context when we speak of the Police Service Bill I ask: What do we do about career planning? The Commissioner of Police is going to be a very busy man; it looks like restructuring of the police service would be one of the first things to be done and in doing so, evidently, we would be creating a new management structure, not the situation now where you have one over one over one kind of thing, but more important than that, we should be looking at career planning. What I have not seen in any of these Bills here is any provision for taking people above the level of trainee; and what is wrong with that because, if we have a gap there, we should try to fill it.

I remember years gone by we had administrative cadets, in fact, two of those persons, as far as I remember, became Commissioners of Police. One can check that, I remember Commissioner Jim Rodriguez and Commissioner May. I believe both of those persons did not come through the ranks they were taken on as cadets, and really, in planning, we have to do that. There would always be the people at the level which will be satisfied for what we call the Second Division persons. But can we not introduce a system whereby we recruit persons with qualifications and experience straight into the First Division? A person coming in with a necessary

degree—a trainee, 15 years—if he is 25 years by the time he has finished his degree, it may be science, it may be an MBA. So many young persons now are doing their MBAs. It does not have to be in police management, so you have flexibility and you have material which you can train and go right through into a system and everybody like that will aspire to the top job so you will have succession planning. This procedure for selection of a Commissioner or Deputy Commissioner may not be necessary after some time. I will like that to be considered and if the hon. Minister could react to it today, I would like to know whether there are any plans to go in that direction.

As regards the qualification procedure, in terms of the selection process, Sen. Mary King used the word “cumbersome” and I also used the word cumbersome in my notes here. In fact, last night I wrote: “The process is at best cumbersome and at worst unworkable and may not yield the best results.” I was surprised really because I understand the hon. Minister has a doctorate or a post graduate degree in human resource management.

Sen. Joseph: No, I do not have a doctorate, and thank you for giving way. As I indicated to Sen. Mary King during her contribution, in the other place we had agreed that the process was cumbersome, and we had agreed that it was going to be the subject of a review because most persons recognized that it really causes you to jump through some hoop, and that there is a commitment to look at it and as a result streamline the selection process before it is approved.

Sen. B. Ali: Thank you, hon. Minister. Sen. King had mentioned it and I really think it needs to be very closely looked at, because I do not think these three selection teams, or whatever you choose to call it, will work. You are looking at 51 persons to make a selection for a position. I am looking forward to see a system which would work much more quickly than that. Somebody was very facetious and said if someone is employed now by the time he reaches to that stage they would be able to select him—it is 15 years—but that is someone being facetious as to the length of the process. Through you, Madam President, I am sure that the hon. Minister would look very closely at that. Madam President, those were the things I had to say on the Constitution (Amdt.) Bill.

On the Police Service Bill which has some very minor amendments, the same question is commencement—when? Interpretation. The definition of the police service, they say, goes back to the Third Schedule but when I went to the Third Schedule I did not see the position of Deputy Commissioner of Police or Commissioner of Police in that Schedule. That Third Schedule is headed “Classification of Offices in the Police Service,” and those two positions are not

there, and they are officers, as far as I am aware, so we need to do something about that today to correct it. It is either you say that the First, Second and Third Schedules which will cover them because the First Schedule is First Division, the Second Schedule is Second Division, the Third Schedule is this one with all these grades which I do not know about and an effective date which I also do not know about. I was going to ask what does that 1/10/03 date mean in terms of classification. The main point is that those two positions of Commissioner and Deputy Commissioner of Police are not in the Third Schedule which is supposed to be the Schedule.

Sen. King: Are they not in the First Schedule?

Sen. B. Ali: They are, but then those are not all the people. The Third Schedule has all the police bandsmen, et cetera, but they are not there. The First and Second Schedules are for officers in the First Division and Second Division so I do not know—the other people; the police bandsmen right up to the Police Band Superintendent—*[Interruption]*—whether they are officers or not. I am not an expert in that so I leave that for the drafters to sort out, it is just that I spotted it and I wished to bring it to notice.

In a number of cases we see “criteria to be prescribed.” I believe Sen. Seetahal raised that again and I would really like to see those because in a number of cases when we are looking at appointment and promotion of trainees, et cetera—I see the regulations are there in clauses 16 and 17. “Assessment Centre:” That came up—it is very strange because two nights ago I was at a little function and the words “Assessment Centre” came up and I said: “I have been doing some work on that.” They told me: “Assessment Centre, I am sure it is not that.” Apparently there are assessment centres right throughout the city where they do assessment of homeless persons and vagrants. That is the term used, Madam President, I remember that term and I have it written here: “Who are they?”

As regards the other organization, the Promotion and Advisory Board, I see the list but I do not see who the Chairman is. Suddenly I see they speak of the “Chairman”; is the Chairman going to be appointed by the members themselves or otherwise? That is a little item. Clause 17(2), the Promotion Advisory Board, except for that the question as to who is the Chairman, is okay.

With respect to “Criteria for Promotion”: I have the same question of what are they and we need to see them, and regulations, of course, I suppose would be coming, subject to affirmative resolution of Parliament, which is reasonable.

With respect to the Police Complaints Authority Bill, I was looking to see what the duties of the Complaints Authority would be and this is where I got a little stuck because one of their duties is to receive complaints with respect to serious police misconduct. When I looked at the interpretation clause it referred to Regulations 2006 but I do not think those regulations are there. I would like to know what really serious police misconduct means. I am asking that because in the original Act any person could go with a complaint to the Police Complaints Authority. In this one there is no provision, as far as I can see, for one to do that. There are a lot of what would be called small items of police misconduct, I do not know, but if the Minister could tell me what it is, then I will tell him what I am thinking.

Madam President, right now there are a lot of people who complain—women particularly—about the attitude and the way they are treated by police officers whether it is on the streets; they use obscene language to them and rough them up. People now are afraid to pick up a telephone and call a police station because they say they may have caller ID and they could then find out who is calling them. People are afraid, and I am sorry that I have to say that, but it is a fact of life that people are afraid to make complaints. I am hoping that morale in the public service and the police service would improve and people would then have more confidence and trust in the police service. Right now people would tell you: They do not protect and serve; they bully. I do not see how they could make a complaint, now that it is away from the police centres. I would like to know how that is handled; if it is handled; where it is handled.

The question arose, and I have heard it said about the 39 Scotland Yard officers being brought in under the SRP Act. They say the reason is that you have to be a citizen to be a policeman; I do not know. Certainly, in this Police Service Bill, this is not so because I have not seen it. It is a police person who said that this is how they would probably be brought, so I would like to know. One would like to know how they are coming here. Will they be subject also to the Police Complaints Authority? Under the present system, if this Bill goes through, they can be contracted, but that is not law as yet. I do not know when it is going to become law and I do not know when the Scotland Yard police officers are going to be here. Hon. Minister, through you, Madam President, I would like to know.

I have a rather sensitive question and I know it has been raised here before: What is the position of the Special Anti-crime Unit of Trinidad and Tobago (SAUTT)? Sen. Seetahal brought it up here and she said, basically, that there is no legality to them. She has written in her *Sunday Guardian* articles on the same

subject but nobody really knows what their status is. To whom does the Brigadier report? The Brigadier speaks in many press conferences and he is not in uniform of the regiment or the police; he is a suited man. I would like to know: To whom does he report? He has under him policemen and defence force personnel. The police would come under the Police Complaints Authority, I would presume, if they are just on secondment, so I would like to find out that and I am serious about this. Sen. Seetahal is not here but last year in the month of September I gave her some information about a young bona fide quarry operator in the East where a very senior person from SAUTT walked in with no notice or anything and said you have to get out and the man being scared got out and the next thing you know was that the site was being used for housing the first blimp.

Hon. Attorney General, through you, Madam President, I know you would have had a copy of a letter on that because the person, apart from writing to the Ministry of Energy and Energy Industries, has sent letters around, including your office, and has had acknowledgement. This is why I would like to find out what is the status. Many people cannot afford to take them to court. This young fellow has entered a contract for the supply of aggregates, et cetera and he is losing money and he is threatened with being sued by the people who have paid him money in advance for their aggregates and so on. It is to me a very important part of what the whole thing is about. I have very strong views on these matters and I would like a resolution of them as soon as possible.

Thank you.

The Minister of National Security (Sen. The Hon. Martin Joseph): Madam President, let me first start off by thanking the many Senators, 10 in all, for their numerous contributions to the debate tonight. It will not be possible for me to respond to every single issue raised. I think I should first start with the last speaker, at least to address some of the concerns. He talked about the fact that the Commissioner and Deputy Commissioner are not mentioned in the Third Schedule but I think we have removed them, and as a result the whole question of the status of both the Commissioner and Deputy Commissioner is such that they will not form part of the Bill.

Sen. Ali: Is the hon. Minister saying that the Commissioner and Deputy Commissioner are not police officers?

Sen. The Hon. M. Joseph: I am not saying that, they are police officers but they do not now fall directly under the Police Service Bill for which you referenced the question of the schedules. There was a lot said about the restructuring of the police service—Sen. Anmolsingh-Mahabir also spoke about that—that would be

the responsibility of the commissioner to ensure that he has a police organization that really provides him with the kind of efficiency and effectiveness for which he is going to be expected.

In terms of the reports, the commissioner is expected to present to the commission annual reports. It would be expected that he would provide them with what his plans are as it relates to the performance of his police organization in terms of what some of the projections are. It is not just going to be some oral report, he is going to be expected in a structured way to report to the commission in terms of the performance of the police service, again, in keeping with other jurisdictions as it relates to the fact that he is now accountable to an entity.

Sen. Prof. Ramchand spoke as to whether or not we had removed the insulation that currently exists and the answer is no, the insulation has not been removed.

Sen. Mark raised questions as to the legislative agenda. There is a commitment that we are going to bring the DNA legislation, the Injuries Compensation Act, the Anti-Money Laundering Act, there is a whole list, the equal opportunity. There is a commitment that the next Bill that comes, once we take care of this three-bill package, is the Equal Opportunity Act. The question about constitutional reform, that is also being addressed; the amendment to the Motor Vehicles and Road Traffic Act, those Bills are coming.

Sen. Dr. Mc Kenzie raised the question of the extent of the other commissions. She was not the only one; I am not in a position to answer that. She raised also questions of what I refer to as jurisdictional issues. The commissioner is having some challenges in trying to get police officers to recognize when citizens call to make a complaint to tell them this is not their jurisdiction is not supposed to be the response, but to deal with the matter and if necessary pass it on. We are still dealing with that issue and I guess he will have to codify that as it relates to responding to concerns raised by citizens to say that you are reporting to the wrong police station; take that to another police station district, so that is being addressed.

Sen. Prof. Kenneth Ramchand also talked about the training programme and the curriculum and so did Sen. Seetahal. I promised Sen. Seetahal that she would get a copy of the curriculum which itself is the subject of review. There is now a current batch of police officers who are being trained with the new curriculum. I am sure that you have recognized that in terms of national security, all persons applying for any position in any of the ministry's divisions or agencies; you would have seen that there are photographs appearing in the daily newspapers asking citizens to provide additional information on them. We have taken the vetting one

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step further, all the way up to polygraphing. We are ensuring the persons who are joining the police service—especially this batch that is now training—are going to be a new batch of police officers. We are addressing the issue of training and curriculum.

There is a lot of talk on whether or not these are crime Bills. I remember when I was doing economics that I was told if you want good widgets, you are going to have good widget workers. I do not know what a widget is, but certainly if we want improved law enforcement, we better have improved law enforcement officers. These Bills are attempting to provide the police service with the ability to improve its managerial capability and competence and to provide single point authority. Because, as it stood, there were diverse—the Minister had responsibilities, the commissioner had responsibilities, the commission had responsibilities. And I clearly stated, we have given up some of the responsibilities; the Minister and the Permanent Secretary have now given up responsibilities and the Permanent Secretary has maintained the accounting responsibility in keeping with the Exchequer Act so that we would address that.

9.00 p.m.

Sen. Prof. Deosaran raised the question about the indirect route of the commissioner to the parliamentary committee and as a result, that needs to be looked at.

I am sorry, Sen. Mary King, about the fact that the question about the role of the Senate is being reduced and Sen. Ali indicated marginalized. I am sorry that I cannot provide you with any level of comfort as it relates to that reduced role, but I think Sen. Prof. Ramesh Deosaran addressed that nicely, that in the circumstances if one has to give up some things in order to make sure that some progress is made then, perhaps, that is the way to go and I hope that Independent Senators and Senators on the other side would not take to—

Sen. Mark: Madam President, just for clarification through you. I would like if the hon. Minister could just address two small areas for us in winding up. Firstly, how soon would the regulations be brought to the Parliament, and the other area we would like you to address your mind to is that with these new Bills, what would be the role of the Special Anti-crime Unit? Would they now fall under the complete control of the Commissioner of Police?

Sen. The Hon. M. Joseph: Let me see if I can remember the first question—we are working on the regulations and there is a commitment with the other side to have those regulations ready within a couple of weeks.

Somebody asked how soon these Bills are going to be implemented. They would be implemented as soon as they are passed and proclaimed. In terms of what happens to the Special Anti-crime Unit, it is more likely that it would fall under new legislation.

Madam President, on that, I am sorry that I could not, independently respond to everybody but with that, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 6.

Question proposed, That clauses 1 to 6 stand part of the Bill.

Sen. Seetahal, S.C.: I had made my point about the offence but I guess I did not hear a response. That is clause 5, 122A(1)(b). Clause 5, which creates 122A.

Sen. Jeremie: We took the point but the thinking is that we want people of the highest integrity to sit on the Police Service Commission, and that we felt in respect of the example that you gave, the traffic offence perhaps, that might be dealt with by a reprimand and discharge under the relevant sections. So that we are unable to agree to it. We want persons who are equivalent to Caesar.

Sen. Seetahal, S.C.: If your response is going to be in respect of traffic offences it is not usually put in a criminal record so nobody would know, which is probably the way. I really do think that when you come back to this legislation you would have to put in something like some qualification because it really does not make sense.

Madam Chairman: Sen. Prof. Deosaran, your amendments under clause 6 because this is from clauses 1 to 6 we are dealing with.

Sen. Prof. Deosaran: I proposed an amendment which conveys the intention of the clause but which is not stated as precisely as it should. After “the words”, I want the words “in writing” included.

Sen. Prof. Ramchand: Report in writing.

Sen. Jeremie: We do not feel that is necessary because we feel a report of this nature would definitely be submitted in writing.

Sen. Prof. Deosaran: I hear you and I hear the Minister too, but we are making laws here and you feel this way and that way is important. But I do not think it really satisfies the requirement of having that provision stated very precisely so when we are not here the interpretation would not depend on your feelings. I believe it needs to be put more precisely and authoritatively and there should be no room for inference. I think, and with the matters of judicial review going on, I think we ought to be very careful as to what to put and the correct thing to me, Attorney General, is that we put after report, it should be “in writing”.

Sen. Jeremie: I said that we feel but I meant to soften what we understand. We understand that reports of this nature would be in writing.

Sen. Prof. Deosaran: In other places in writing and in the Constitution it says in 66A and up to D, the wording is more precise than here.

If I were a commissioner, I would submit my thing in writing I know but I do not think we ought to leave the provisions to such personal preference.

Sen. Prof. Ramchand: Suppose the commissioner goes in and says what he has to say orally and the chairman says no, I want it in writing and he says there is nothing in law saying I have to give it to you in writing.

Sen. Jeremie: If one looks at section 66A of the constitution, it does not say in writing, it says a report, but it is going to be in writing.

Sen. Prof. Ramchand: We got away with that for a long time and now we are trying to correct it.

Is the problem that you do not want to go back to the other place?

Sen. Jeremie: If it has so to be the basis of the commissioner’s appraisal it has to be in writing, so that with great respect, we would like to leave it as it is.

Sen. Prof. Deosaran: We should specify what the report should contain a bit more other than just the general issue of management.

Sen. Jeremie: That might be in regulations but it would not be in the legislation.

Sen. Seetahal, S.C.: I was just about to suggest that under the Police Service Bill there is provision for a wide range of things and included in that is the general good order and management of the police service. It would seem to me that the thing could be resolved in the regulations that are forthcoming, that that be included in terms of the procedure for these matters. That is really like details which would normally be in regulations.

Sen. Jeremie: That is acceptable.

Sen. King: Madam Chairman, also under clause 6, 123(5). We are talking about powers of the Police Service Commission. I had suggested that the appointment should be done by way of a joint select committee in public.

Sen. Jeremie: That did not find agreement with the Opposition in the other place and there is a reason. If it is done by a select committee or a joint select committee then you open yourself up to the possibility of calling witnesses. We felt that we were doing away with the veto power of the Prime Minister. We did not want to extend the thing to multiple hearings. In different places, in the House of Representatives and in the Senate so that this is a matter of policy which was the subject of agreement with the Opposition.

Sen. King: I am not understanding both Houses; House of Representatives and the Senate. I am suggesting a joint committee chaired by a Government minister, a government person.

Sen. Jeremie: That did not find favour with the Opposition. We did agree on that.

Sen. Prof. Ramchand: Prof. Deosaran seemed to imply as it is stated here, the House would still have the option of having a joint select committee hearing this thing in-camera, dealing with it in-camera.

Sen. Jeremie: I imagine if it is permitted by the Standing Orders and if they so wish, if the presiding officers, perhaps—

Sen. Prof. Ramchand: If that option really exists.

Sen. Jeremie: It is not something that I can venture a view on now but this is really the concordat which was arrived at with the Opposition. The negotiations were difficult but this is the formula that we have agreed on and it is a substantial step forward.

Sen. Prof. Ramchand: I do not suppose anybody would take me on with free vote and free discussion and voting by secret ballot.

Sen. Jeremie: We always take you on, but unfortunately that too is a matter outside of the concordat.

Madam Chairman: Prof. Deosaran, are you pursuing clause 6(4)?

Sen. Prof. Deosaran: The Attorney General assured me that it was left out and it would be inserted.

Sen. Jeremie: It is a typo. Somebody worked late but we have it in the draft as amended in the House. I was in the House yesterday and I know it is in there.

Madam Chairman: How do we deal with that because it is not in mine?

Sen. Jeremie: [*Crosstalk*] It is not an amendment. It is a typo.

Sen. Seetahal, S.C.: It should be in the chairman's. I am saying for the formality the chairman, because the chairman is the one who is going to report to the Senate.

Sen. Jeremie: I am told it is a typo. When a copy was prepared apparently they missed. From the Lower to the Upper House but it was missed out. It could be checked, take it from me.

Sen. Seetahal, S.C.: Before we can vote on it, I think the chairman should at least read out that because we would not be cognizant of what we are voting on since we do not have it in ours. You have to read it for the records.

Sen. Jeremie: Can I read it now?

“(4) The President shall issue a Notification in respect of each person nominated for appointment under subsection (3) and the Notification shall be subject to affirmative resolution of the House of Representatives.”

Sen. Seetahal, S.C.: Is that 6(4), the real 6(4)?

Sen. Jeremie: Yes. We have a copy of amendments which were actually approved in the House last night and it is there.

Sen. Dr. Goopeesingh: The old one has it but the new one does not. So it is really omission by error.

Sen. Jeremie: It was a typo. I am told that the old one has it.

Question put and agreed to.

Clauses 1 to 6 ordered to stand part of the Bill.

Clauses 7 to 11 ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

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

Senate resumed.

Bill reported, without amendment.

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

The Senate voted: Ayes 26

AYES

Jeremie, Hon. J.

Joseph, Hon. M.

Montano, Hon. D.

Enill, Hon. C.

Gift, Hon. K.

Manning, Hon. H.

Chin Lee, Hon. H.

Dumas, Hon. R.

Titus, R.

Abdul-Hamid, Hon. M.

Kangaloo, Hon. C.

Ramroop, S.

Hackshaw-Marslin, Mrs. J.

Williams- Smith, Mrs. M.

Mark, W.

Goopeesingh, Dr. T.

Kernahan, Dr. J.

Seepersad-Bachan, Mrs. C.

Baksh, S.

Ramchand, Prof. K.

King, Mrs. M.

Seetahal, S.C., Miss. D.

Anmolsingh.-Mahabir, Mrs. P.

Khan, Bro. N. S. A.

Ali, B.

Rocke, Miss A.

The following Senators abstained: Prof. K. Ramchand, Prof. R. Deosaran.

Question agreed to.

Bill accordingly read the third time and passed.

POLICE SERVICE BILL

The Minister of National Security (Sen. The Hon. Martin Joseph): Thank you Madam President. I beg to move,

That a Bill to consolidate, amend and revise the law relating to the Police Service to ensure efficient and transparent management of the Service and to provide that the principles of equity and meritocracy shall be applied at all times and for other related matters be now read a second time.

Question proposed.

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 3 ordered to stand part of the Bill.

Clauses 4 to 9.

Question proposed, That clauses 4 to 9 stand part of the Bill.

Sen. Ali: Madam Chairman, in clause 4(1) I am still saying that that should not be in the Third Schedule:

“The Trinidad and Tobago Police Service is hereby established constituting the public offices as set out in the Third Schedule”

I am saying that it should not be the Third Schedule because the offices of the Commissioner and the Deputy Commissioner, those two officers are not in that Schedule. And I am saying it could be the First Schedule and the Second Schedule.

In the First Division of the Police Service Commission it says Commissioner and Deputy Commissioner.

Sen. Jeremie: In the Third Schedule to the Police Service Bill the Commissioner of Police and the Deputy Commissioner of Police are missing because these offices are under the Salaries Review Commission, but an order of the President can amend the Schedule. Clause 6(1) of the Bill refers to add these two offices if need be.

Question put and agreed to.

Clauses 4 to 9 ordered to stand part of the Bill.

Clauses 10 to 15 ordered to stand part of the Bill.

Clauses 16 to 22.

Question proposed, That clauses 16 to 22 stand part of the Bill.

Sen. Ali: Madam Chairman, there seems to be missing in my draft—I think the old draft had it correct—

“In the exercise of the powers vested in him by section 123A(2)(a) of the Constitution, the Commissioner shall take into account—”

—is missing. [*Crosstalk*] And it should be him in the first line.

Sen. Seetahal, S.C.: The Commissioner was in the original, so it would be the Commissioner. [*Crosstalk*]

9.30 p.m.

Sen. Jeremie: It is in my draft:

“In the exercise of the powers vested in him by section 123A(2) of the Constitution, the Commissioner shall take into account—”.

Sen. Seetahal, S.C.: We do not have “the Commissioner”.

Sen. Jeremie: Typographical. There was a great deal of haste in bringing this from the other place to the Senate. I will read it.

“In the exercise of the powers vested in him by section 123A(2)(a) of the Constitution, a Commissioner shall take into account...when he makes an appointment on promotion”.

Sen. Seetahal, S.C.: Before we vote on it, there is something in clause 18 and it might be a typo—18(1).

Sen. Jeremie: Can we just fix 16 for the time being? Is it okay now?

Madam Chairman: Yes. 18?

Sen. Seetahal, S.C.: 18(1), Madam Chairman, reads—

Sen. Jeremie: I am told that the CPC department did not get an opportunity to proofread the Bill overnight.

Sen. Seetahal, S.C.: We are doing it now then. Okay. Clause 18(1) says:

“The Assessment Centre shall conduct an assessment of the suitability for promotion of a police officer...”

And this is my concern—

“to the First Division from the rank of Assistant Superintendent through to Assistant Commissioner.”

Since Assistant Superintendent to Commissioners are members of the First Division, I fail to understand how the Assessment Centre could promote you to a division to which you already belong. You are already in the First Division, so you cannot be promoted to the First Division.

[*Crosstalk*]

Sen. Seetahal, S.C.: You probably mean “to the rank”, “through the rank” or “in the rank”. It would make more sense. As it is, it is ambiguous. That is my point. The fact that we have to go through this shows you it is ambiguous. You really mean “in the rank”. That can go as a typo; we do not have to go back.

Sen. Jeremie: The word “to” should be “in” as a typo.

Sen. Seetahal, S.C.: If you do that, it would be wrong because the Assistant Superintendent is already in the rank. Could I just read what I think it means? This is the Assessment Centre. Remember it promotes only to the First Division and from and within the First Division. “For promotion of a police officer to the First Division”; maybe it means “in the First Division”. It cannot be “from the rank”; unless you mean “in the rank”.

Sen. Jeremie: I just said we can strike “to” and put “in”.

Sen. Seetahal, S.C.: Now it would relate back to “in”. I see what you are saying. It could probably be interpreted “from the rank”. I was doing it from the opposite side.

Sen. Jeremie: It is a typo.

Sen. Seetahal, S.C.: I accept that.

Sen. Prof. Deosaran: Madam Chairman, 17(2)(b), would it not be better to have, instead of “the Assistant Commissioner”, “an Assistant Commission”?

Sen. Jeremie: Typo. No proofreading. It must be “an Assistant Commissioner”.

Sen. Seetahal, S.C.: Unless you know there is a real one.

Sen. Dr. Gopeesingh: Just a typo at 17(1)(c).

Madam Chairman: Just the “a” to be taken out. It should be “the Human Resources”.

Question put and agreed to.

Clauses 16 to 22 ordered to stand part of the Bill.

Clauses 23 to 79 ordered to stand part of the Bill.

Clause 80.

Question proposed, That clause 80 stand part of the Bill.

Sen. Prof. Ramchand: Should we have identified which Police Service Act is repealed?

Madam Chairman: Where is that?

Sen. Prof. Ramchand: Clause 80.

Sen. Jeremie: It is in the marginal note. There is only one.

Question put and agreed to.

Clause 80 ordered to stand part of the Bill.

First Schedule to Fifth Schedule.

Question proposed, That the First Schedule to the Fifth Schedule stand part of the Bill.

Sen. Seetahal, S.C.: There is one point I want to make. I looked at the sections that Sen. Ali was talking about in the creation of the Third Schedule. I know what the hon. Attorney General said—let me say that at the outset—that the President can amend it. I want to make the point that if one compares section 4 with section 7, it is plain, to my mind in any case, that the deputy commissioner and the commissioner are offices in the police service. It could not be otherwise. Whether or not he is paid under the Salaries Review Commission is really not relevant.

I think there was an error with that schedule. However, if 6(1) says that the President may amend the classification of offices and if it is felt that the inclusion now is more than a mere typo, then I expect that the Minister would seek to have

Police Service Bill
[SEN. SEETAHAL]

Tuesday, March 28, 2006

that clarified through the operation of section 6(1), by going to the President as soon as possible, otherwise someone could take the point that the positions of commissioner and the deputy commissioner are not public offices and we could have a problem in judicial review, firearms issuance and other applications.

Sen. Jeremie: We would look at it.

Question put and agreed to.

First to Fifth Schedules ordered to stand part of the Bill.

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

Senate resumed.

Bill reported, without amendment, read the third time and passed.

POLICE COMPLAINTS AUTHORITY BILL

The Minister of National Security (Sen. The Hon. Martin Joseph): Madam President, I beg to move,

That a Bill to establish an independent body to investigate criminal offences involving police officers, police corruption and serious police misconduct and for other related matters, be read a second time.

Question proposed.

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 4.

Question proposed, That clauses 1 to 4 stand part of the Bill.

Sen. Ali: Madam Chairman, the definition of “serious police misconduct”, speaks about the commission of an offence under the Police Service Regulations, 2006. There are no Police Service Regulations in place.

Sen. Jeremie: The regulations will come in a week or so. We understand the problem.

Question put and agreed to.

Clauses 1 to 4 ordered to stand part of the Bill.

Clauses 5 to 52 ordered to stand part of the Bill.

Clause 53.

Question proposed, That clause 53 stand part of the Bill.

Sen. Seetahal, S.C.: There is one issue I have with clause 53. I raised it earlier. This should not be in the main Act—the amending of another Act. It should really be in a schedule. This is the Police Complaints Authority Bill but clause 53 deals with the Domestic Violence Act being amended. That is not the way it should be done.

Sen. Jeremie: It is really a matter of style. It can be done this way. It can also be done in the form of a schedule, but it does not take away from the substance of the statute or the efficacy of the amendment.

Sen. Seetahal, S.C.: Anything can be done in any way, but this is not the proper way. I hope this is not repeated.

Sen. Jeremie: Sometimes it is done like this. I am told by the experts that if there are multiple amendments, it is usually done in the form of a schedule, but this is permissible if there is one.

Question put and agreed to.

Clause 53 ordered to stand part of Bill.

Preamble ordered to stand part of the Bill.

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

Senate resumed.

Bill reported, without amendment.

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

The Senate voted: Ayes: 28

AYES

Saith, Hon. Dr. L.

Jeremie, Hon. J.

Joseph, Hon. M.

Montano, Hon. D.

Enill, Hon. C.

Gift, Hon. K.
Manning, Hon. H.
Chin Lee, Hon. H.
Dumas, Hon. R.
Titus, R.
Abdul-Hamid, Hon. M.
Kangaloo, Hon. C.
Ramroop, S.
Hackshaw-Marslin, Mrs. J.
Williams-Smith, Mrs. M.
Mark, W.
Gopeesingh, Dr. T.
Kernahan, Dr. J.
Seepersad-Bachan, Mrs. C.
Baksh, S.
Ramchand, Prof. K.
Deosaran, Prof. R.
King, Mrs. M.
Seetahal, S.C., Miss D.
Anmolsingh-Mahabir, Mrs. P.
Khan, Bro. N. S. A.
Ali, B.
Rocke, Miss A.

Question agreed to.

Bill reported, without amendment, read the third time and passed.

Adjournment

ADJOURNMENT

The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith): Madam President, I beg to move that the Senate be now adjourned to Tuesday, April 04 at 1.30 p.m., at which time we will deal with the matters under Private Business. I believe it is the continuation of the Motion by Sen. Prof. Deosaran.

Shouter Baptist Liberation Day Greetings

Sen. Wade Mark: Madam President, I am sure that my colleague will agree with me that Thursday, March 30 is a very important day in the history of the Shouter Baptist community. I think it was really an oversight on the part of my colleague and he would forgive me if I take this opportunity, on behalf of the Opposition United National Congress, to extend our solidarity, greetings and well wishes to the Shouter Baptist community on the occasion of their Liberation Day.

It has been a very long and difficult struggle for members of this community over the years, but we feel a sense of pride and joy that it was under a United National Congress administration that the Shouter Baptist community was granted their well-deserved public holiday in observance of their struggle.

Madam President, it is the first time, I think, that we are recording the sentiments of celebration on the occasion of Shouter Baptist Liberation Day. It will go a long way, in the future, for us to keep that particular trend. Whether it was in the context of land, amendment to the Sedition Act or legitimization of Orisha marriages for the first time in the history of our country, we contributed to all of those areas.

Therefore on the occasion of Shouter Baptist Liberation Day, we in the United National Congress wish to extend warm and fraternal greetings to our brothers and sisters in the Shouter Baptist Community of the Republic of Trinidad and Tobago. Happy Shouter Baptist Liberation Day!

The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith): Madam President, the hon. Senator is quite correct in that it escaped my attention. In the spirit in which we passed the legislation today, let me say we join in the remarks of the hon. Senator in wishing them a happy Spiritual Baptist Liberation Day. We associate ourselves with his remarks, except the UNC portion. [*Laughter*] The PNM wishes to extend best wishes to the community on Thursday 30. [*Desk thumping*]

Shouter Baptist Day Greetings

Tuesday, March 28, 2006

Sen. Prof. Kenneth Ramchand: Madam President, on behalf of the Independent Senators, I congratulate the Shouter Baptists on having struggled and won the present holiday. I congratulate the government of the day and the country for having supported their struggles and recognizing them by this holiday. Best wishes to the Shouter Baptist community.

Madam President: I too would like to join with all members in bringing greetings to the Shouter Baptist community as they celebrate Shouter Baptist Liberation Day. I wish them all the best and, as has been said, their struggle was a long one and I think that they have every right to celebrate. On behalf of my family and me, I wish them all the best and an enjoyable day.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 10.00 p.m.

Written Answer to Question

Tuesday, March 28, 2006

**NATIONAL LOTTERIES CONTROL BOARD
LEGAL FEES FOR PERIOD JANUARY – DECEMBER 2002**

Year 2002	Name of Firm	Brief Fees \$	Appearance Fees \$	Instructing Fees \$	Total Cost \$
April	Alvin K Fitzpatrick SC			28,750.00	28,750.00
May	Byrne & Byrne			1,000.00	1,000.00
	R. O. Huggins			862.50	862.50
	R. O. Huggins			862.50	862.50
June	R. O. Huggins			1,092.00	1,092.00
	Chersons			2,932.50	2,932.50
July	Chersons			4,025.00	4,025.00
August	Alexander, Jeremie & Co.			362,250.00	362,250.00
September	Chersons			6,612.50	6,612.50
	Chersons			4,312.50	4,312.50
	Chersons			6,440.00	6,440.00
	Chersons			6,612.50	6,612.50

Written Answer to Question

Tuesday, March 28, 2006

**NATIONAL LOTTERIES CONTROL BOARD
LEGAL FEES FOR PERIOD JANUARY – DECEMBER 2002**

Year 2002	Name of Firm	Brief Fees \$	Appearance Fees \$	Instructing Fees \$	Total Cost \$
October	M. G. Daly & Partners			3,450.00	3,450.00
	Alexander, Jeremie & Co.			1,380.00	1,380.00
	Carol B. D. Gobin			10,000.00	10,000.00
	Gittens, Smart & Co.			1,725.00	1,725.00
November	Chersons			1,092.50	1,092.50
	Chersons			12,362.50	12,362.50
	TOTAL			\$455,762.00	\$455,762.00

Written Answer to Question

Tuesday, March 28, 2006

**NATIONAL LOTTERIES CONTROL BOARD
LEGAL FEES FOR PERIOD JANUARY – DECEMBER 2003**

Year 2003	Name of Firm	Brief Fees \$	Appearance Fees \$	Instructing Fees \$	Total Cost \$
January	Chersons			12,362.50	12,362.50
March	Alexander, Jeremie & Co.			1,495.00	1,495.00
	Alexander, Jeremie & Co.			10,350.00	10,350.00
	Chersons			46,793.88	46,793.88
April	Chersons			5,899.42	5,899.42
May	Alexander, Jeremie & Co.			2,070.00	2,070.00
June	Alexander, Jeremie & Co.			2,300.00	2,300.00
	Alexander, Jeremie & Co.			17,250.00	17,250.00
	Alexander, Jeremie & Co.			1,150.00	1,150.00
	Alexander, Jeremie & Co.			1,840.00	1,840.00
	Alexander, Jeremie & Co.			5,750.00	5,750.00
	Alexander, Jeremie & Co.			1,380.00	1,380.00
August	Alexander, Jeremie & Co.			1,725.00	1,725.00

Written Answer to Question

Tuesday, March 28, 2006

**NATIONAL LOTTERIES CONTROL BOARD
LEGAL FEES FOR PERIOD JANUARY – DECEMBER 2003**

Year 2003	Name of Firm	Brief Fees \$	Appearance Fees \$	Instructing Fees \$	Total Cost \$
August	Alexander, Jeremie & Co.			1,495.00	1,495.00
September	Chersons			3,450.00	3,450.00
	Alexander, Jeremie & Co.			126,500.00	126,500.00
	Chersons			862.50	862.50
November	Alexander, Jeremie & Co.			40,250.00	40,250.00
	Alexander, Jeremie & Co.			460.00	460.00
December	Alexander, Jeremie & Co.			2,760.00	2,760.00
	Alexander, Jeremie & Co.			80,500.00	80,500.00
	Alexander, Jeremie & Co.			1,495.00	1,495.00
	Alexander, Jeremie & Co.			1,380.00	1,380.00
	Alexander, Jeremie & Co.			1,380.00	1,380.00
	TOTAL			\$370,898.30	\$370,898.30

Written Answer to Question

Tuesday, March 28, 2006

**NATIONAL LOTTERIES CONTROL BOARD
LEGAL FEES FOR PERIOD JANUARY – DECEMBER 2004**

Year 2004	Name of Firm	Brief Fees \$	Appearance Fees \$	Instructing Fees \$	Total Cost \$
January	Alexander, Jeremie & Co.			1,725.00	1,725.00
February	Alexander, Jeremie & Co.	2,875.00		2,875.00	5,750.00
	Alexander, Jeremie & Co.			6,375.00	6,375.00
	Chersons			862.50	862.50
May	Pollonais Blanc, de la Bastide & Jacelon			4,025.00	4,025.00
	Alexander, Jeremie & Co.		4,500.00	4,025.00	8,525.00
July	Alexander, Jeremie & Co.			5,750.00	5,750.00
September	Alexander, Jeremie & Co.			6,900.00	6,900.00
	Alexander, Jeremie & Co.			5,750.00	5,750.00
November	Alexander, Jeremie & Co.			115,300.00	115,300.00
	Alexander, Jeremie & Co.	250,000.00			250,000.00
December	Chersons			3,551.78	3,551.78

Written Answer to Question

Tuesday, March 28, 2006

**NATIONAL LOTTERIES CONTROL BOARD
LEGAL FEES FOR PERIOD JANUARY – DECEMBER 2004**

Year 2004	Name of Firm	Brief Fees \$	Appearance Fees \$	Instructing Fees \$	Total Cost \$
December	Chersons			4,025.00	4,025.00
	Chersons			2,587.50	2,587.50
	Alexander, Jeremie & Co.			130,000.00	130,000.00
	Chersons			2,357.50	2,357.50
	TOTAL	\$252,875.00	\$4,500.00	\$296,109.28	\$553,484.28

Written Answer to Question

Tuesday, March 28, 2006

**NATIONAL LOTTERIES CONTROL BOARD
LEGAL FEES FOR PERIOD JANUARY – OCTOBER 2005**

Year 2005	Name of Firm	Brief Fees \$	Appearance Fees \$	Instructing Fees \$	Total Cost \$
February	Alexander, Jeremie & Co.	4,312.50		4,312.50	8,625.00
March	Alexander, Jeremie & Co.			69,000.00	69,000.00
April	Alexander, Jeremie & Co.			1,955.00	1,955.00
	Douglas Mendes SC.	105,000.00			105,000.00
	Douglas Mendes SC.	105,000.00			105,000.00
	Michael A. A. Quamina	70,000.00			70,000.00
	Michael A. A. Quamina	70,000.00			70,000.00
	Alexander, Jeremie & Co.			80,500.00	80,500.00
	Alexander, Jeremie & Co.			80,500.00	80,500.00
June	Alexander, Jeremie & Co.			1,035.00	1,035.00
	Alexander, Jeremie & Co.	20,000.00		23,000.00	43,000.00
	Michael A. A. Quamina	9,775.00			9,775.00
July	Alexander, Jeremie & Co.			1,092.50	1,092.50

Written Answer to Question

Tuesday, March 28, 2006

**NATIONAL LOTTERIES CONTROL BOARD
LEGAL FEES FOR PERIOD JANUARY – OCTOBER 2005**

Year 2005	Name of Firm	Brief Fees \$	Appearance Fees \$	Instructing Fees \$	Total Cost \$
September	Alexander, Jeremie & Co.			232,250.00	232,250.00
	Alexander, Jeremie & Co.			5,175.00	5,175.00
	Alexander, Jeremie & Co.			2,500.00	2,500.00
	Alexander, Jeremie & Co.			80,800.00	80,800.00
	Alexander, Jeremie & Co.			81,000.00	81,000.00
	Alexander, Jeremie & Co.			13,800.00	13,800.00
	Michael A. A. Quamina	80,500.00			80,500.00
	Michael A. A. Quamina	80,500.00			80,500.00
	Douglas Mendes SC.	120,750.00			120,750.00
	Douglas Mendes SC.	120,750.00			120,750.00
October	Alexander, Jeremie & Co.			4,600.00	4,600.00
	TOTAL	\$786,587.50		\$681,520.00	\$1,468,107.50