

**SENATE***Thursday, January 21, 2016*

The Senate met at 1.30 p.m.

**PRAYERS**[MADAM PRESIDENT *in the Chair*]**PAPERS LAID**

1. Consolidated Audited Financial Statements of First Citizens Bank Limited and its Subsidiaries for the financial year ended September 30, 2015. [*The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan)*]
2. Consolidated Audited Financial Statements of First Citizens Holdings Limited and its Subsidiaries for the financial year ended September 30, 2015. [Sen. The Hon. F. Khan]

**ORAL ANSWERS TO QUESTIONS**

**The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan):** Madam President, in accordance with Standing Order 27(14), I beg for a deferral of questions listed here, question Nos. 14, 15 and 16 for one week.

*The following questions stood on the Order Paper in the name of Sen. Wade Mark.*

**Budget Deficit for Fiscal 2015/2016****(Details of)**

14. Could the Minister say how does the Government intend to finance the budget deficit for fiscal 2015/2016 and whether it intends to raise external finance to achieve same?

**UNREVISED**

**Chairman of the Deposit Insurance Corporation  
(Appointment of)**

15. Could the Minister state whether the term of the Chairman of the Deposit Insurance Corporation has expired, and if so, who has been appointed as the new Chairman of the Deposit Insurance Corporation?

**Trinidad Generation Unlimited  
(Details of Repayment of Moneys)**

16. Could the Minister of Finance advise the Senate whether Trinidad Generation Unlimited has repaid the Government for moneys advanced for the construction of the power plant at La Brea?

*Questions, by leave, deferred.*

**RELATED MOTIONS**

**Sen. Wade Mark:** Thank you, Madam President. I beg to move the following Motion standing in my name, and in moving this Motion, in accordance with Standing Order 48(1), I seek the leave of the Senate, to ask that debate on Motion No. 2, which is related, be taken conjointly. [*Desk thumping*]

**Madam President:** Hon. Senators, is this the wish of the Senators?

*Assent indicated.*

**COMMISSIONER OF POLICE AND DEPUTY COMMISSIONER OF  
POLICE (SELECTION PROCESS) ORDER, 2015  
(ANNULMENT OF)**

**Sen. W. Mark:** Madam President. I beg to move the following Motion standing in my name:

*Whereas* it is provided by section 123(2) of the Constitution that the Commissioner and Deputy Commissioner of Police be selected by criteria

and procedure prescribed by Order of the President subject to negative resolution of Parliament;

*And Whereas* the Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order, 2015 was published on December 16, 2015 by Legal Notice No. 218;

*And Whereas* the Order significantly diminishes the role of the Police Service Commission among other things;

*Be It Resolved* that the Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order, 2015 be annulled.

Madam President, the approach I intend to take in dealing with these matters or Motions is as follows: I want to look firstly at the process and the procedure. I want to then look at the substance of the Orders. Then I want to examine briefly the unconstitutionality of these Orders and, of course, examine the dangers and implications to our democracy, and the freedoms, arising out of the unconstitutionality of these Orders. And, of course, I would like to pose the question, and seek some answers from the Government, as it concerns whether there is some individual who has been targeted for this appointment by the current administration.

It is clear that even in a statement made by the hon. Attorney General, sometime, I believe, if I am not mistaken, it would have been in the period, when he introduced the whistleblower legislation, on November 13, 2015. The hon. Attorney General did indicate to us on page three of his statement, and I quote:

We are at present dealing with the legislative mechanisms to cause the appointment of a Commissioner of Police and we expect this to be

completed no later than the end of November of 2015.

November of 2015, Madam President. However, November came and passed, December almost came and passed, without any notification coming before this honourable Senate, in complete violation of Standing Order 78 of our Standing Orders, that deals with Statutory Instruments, and Standing Order 83 of our Standing Orders, that deals with Statutory Instruments Committee.

So, Madam President, I would not detain you in going through the provisions of these Standing Orders because they are self-explanatory, but here we are told by the hon. Attorney General that the Order for the Commissioner of Police selection process and qualifications will be completed no later than November 30 of last year. So one has to assume, unless we are otherwise informed, that the Government did complete these Orders by the end of November 2015.

But it took the Government to issue those Orders on December 14, and then they were published on December 16. As you know, Madam President, it is only when the Order is published that it takes legal effect, and it becomes law. So whilst we are lawmakers, we are debating a law that is already in existence in our country as we speak. We are debating a law.

So it demonstrated to us either a surreptitious approach on the part of the Government, to deny us in the Parliament the right to examine these instruments when they were published, because it is stated very clearly in these Standing Orders that these instruments must be submitted to the Clerk of the Senate, for the laying on the Table simultaneously with its submission for publication.

So the same time it was published on December 16, it was supposed to be

tabled in this House on that same day, or even a day later. We only became aware of these instruments last week Friday; last week Friday which did not give us the kind of window of opportunity to discuss these matters in the way that we would have liked to discuss them. So we had to rush, Madam President, to file these Motions, since there were no discussions, no negotiations, no consensus between the Government and the Opposition on these instruments.

So the first thing I would like to record, Madam President, is the total disregard and utter contempt shown by the Executive arm, the Government, for this honourable Parliament. That is the first thing.

Madam President, everything seemed to have been done in almost a secretive fashion. It was done by stealth and subterfuge, that is the impression you get, because how can you publish an instrument on December 16, and we are only made aware of it last week Friday, when we came to this honourable House to debate the Finance Bill? That was when it came formally to our notice.

What is even more dangerous is that there has been no serious dialogue, no discussion, no consultation with the stakeholders in this whole exercise. The official Opposition, which represents over 342,000 citizens in the Republic, is a stakeholder, and we were not consulted.

**1.45 p.m.**

We understand the Police Service Commission was not consulted as well. We understand that the Police Service Social and Welfare Association was not consulted, and I guess other agencies would have fallen in the same bracket. So here it is we are dealing with the Commissioner of Police and the police service in this instance, which is under his command and management. That is an agency

that deals with the investigation, detection and prosecution of crime in our country, and we had no knowledge of this event. I heard somewhere on the news that somebody said there were some 29 consultations, but, as far as we are concerned, Madam President, on the matter of the instruments that are before us, 218 and 219, there were no consultations with the Opposition, with the Police Service Commission, and with other stakeholders; no consultation on that particular matter.

Madam President, I want to deal with the substantive matter that is before us. If you go to the instrument 218, as an example, we have a situation where it is revoking instrument No. 102 of 2009, and the instrument of 2009, which is the Legal Notice, when compared to that of 2015, there is a massive difference in what is being proposed. I want to make it very clear, when these Orders were brought on June 14, 2009, by the Minister of National Security then—may his soul rest in peace, my former teacher, former Minister of National Security, Martin Joseph. Madam President, when they were brought, they were brought two years late because the last one was in 2007, and they brought those instruments two years later in 2009.

Madam President, we filed a Motion to annul that instrument then, but the Government had the majority and they passed it, and that is why it came into effect, and the rest is now history. But, Madam President, I want you to go with me, very slowly, to provision 3 of the particular Order where the Government is proposing that:

“the Commission on request of the Minister of National Security shall, in accordance with section 20A(1)(c) of the Central Tenders Board Act,

contract an appropriate local firm...to conduct a recruitment process including inviting applications for the positions;”

Madam President, when you go to 2009 that was not there.

The Minister of National Security, and not the hon. Maj. Gen. (retired) Edmund Dillon, I am not dealing with him; it could be any Minister of National Security. I have respect for the hon. Minister, I think he means well, just in the wrong party. [*Laughter*] But I think he means well. You understand, Madam? So no disrespect to the hon. Minister, whatsoever. So here it is we have in this Order, or this instrument, where the commission, which is the Police Service Commission, on request of the Minister of National Security is seeking, under the Central Tenders Board, to contract a firm. Madam President, before that in the 2009 instrument it was the DPA that triggered the process, but this time we have an invasion by the Executive arm of the State triggering this mechanism to have a contract established to get a firm to begin inviting applicants or applications.

Madam President, we believe this is an intrusion and an invasion by the Executive arm of the State in an independent service commission, which is the Police Service Commission. We do not support the Minister of National Security providing that input into this matter. We believe the service commission or the DPA is appropriate to trigger the mechanism if the language is properly placed to effect it, not the Minister of National Security. What is even worse, Madam President, in accordance with section 20A(1)(c) of the Central Tenders Board Act, when I go to 20(1)(c) of the Central Tenders Board Act, what does it tell us, Madam President? It says:

“Notwithstanding the provisions of section 20(1), the Government may act on its own behalf where— (c) it enters into a contract with the National Insurance Property Development Company Limited or a company which is wholly owned by the State, for the supply of articles or for the undertaking of works or services in connection therewith;”

So, Madam President, we moved from the Minister of National Security, who is a Member of the Cabinet and the Executive arm of the State, and we now go to NIPDEC, and NIPDEC is now responsible for securing the particular firm, or group of firms, to select or to invite applicants or applications. We know that NIPDEC, while it is tripartite—labour, Government, and business—we know that the majority of members on the NIPDEC board is made up of Government Members. So at the end of the day we are positive that the Executive arm of the State is involved in the selection of firms to identify appropriate applicants through an invitation.

Madam President, what is even more serious, we go to (b)—we do not know what is the firm, all we know is that—and I will tell you later on as we go on:

“the Firm shall select, from the applications received, the most suitable candidates for the assessment process;”

Now, Madam President, we do not know how the firm is going to do that. What we know is that in the 2009 Order it states that:

“the Firm shall advertise each vacancy for a period to be determined by the Commission...not”—more—“than seven days...”In the 2007 Order it was four months, and the Government reduced it to seven days.

Now, the Government, in its 2015 Order, is saying the firm shall select, but



nowhere in this Order is the Government telling the country how this firm, this local firm, is going to actually select. Is it going to select people? How, Madam President? Because there is nothing like advertisement here. There is nothing like saying, it must advertise. So that is a concern, how are they going to select candidates for a position as important as that of the Commissioner of Police? It goes on to deal with the practice; they will ensure that the candidate is vetted properly in terms of security and professional vetting, and:

“the Firm shall submit to the Commission—

the results of its assessment process in the form of a short list of candidates;”—and

“a report on its assessment of the entire assessment process;”

And it goes on to tell you the candidate shall provide the following documents.

Now, Madam President, this firm, is this a local firm? They did not define if it is a totally local firm. It did not say whether it is a firm of a multinational corporation operating in our environment, it is locally incorporated, so we do not know if it is Ernst & Young, KPMG, PricewaterhouseCoopers; we do not know if it is Watkins, we do not know who that local firm is going to be because it has not been identified. How it is stated in this Order one gets the impression, Madam President, that this local firm seems to be given the power to select, because it is not advertising and it is not stated here that they are going to advertise, so how are they going to select? Do they have a list of candidates that they have already identified? Or that will be identified by this organization and they will go about selecting? That cannot be fair, not for the post of a Commissioner of Police. It goes on, after they have done all this, this firm will then submit:

“the Commission”—that is the Police Service Commission—“shall then take into account all information on the candidates”—as submitted, those are my words, are submitted by the firm—“and thereafter establish an Order of Merit List...”

So this firm does all the work and then it submits those assessment exercises and results to the commission, who in turn will take into account this information and establish an Order of Merit list.

Now, in the 2009 Order, the Police Service Commission had the authority to make an input, to have an input into this matter. So, the Police Service Commission, when this firm would have submitted its report in the 2009 Order, they have the authority to consult or discuss those results with the firm.

So they have submitted their results, Madam President, and under the 2009 Order, the commission has the right to call in the firm and to discuss the results of those assessments. The Government has deleted that from the 2015 Order, and we do not know why. Why have they deleted that? So you have a constitutional independently established institution being told by a private local firm, these are our candidates. And you know what you have to do, Madam President, as the commission, you have to accept it, because the Constitution says how the Police Service Commission will go about selecting or drawing up the Order of Merit list, Madam President. So this is a bit worrying to us. Where has this private sector firm come from and who has given it all this power?

**2.00 p.m.**

I would like the hon. Attorney General to tell this House where these provisions came from in the 2015 Order. And those provisions, if he can tell us

who did the Government consult with before they established these provisions in the Legal Notices 218 and 219? We have not gotten that information from them. Madam President, this is a serious matter.

We are talking about a police service, already you see frightening instances of police abuse, even with the current transparent and accountable process. You see instances of police abuse in this instance. You just only have to read the newspaper this week. Six policemen on almost \$5 million in bail, for doing what? It is alleged. Serious charges. I will not go through those charges, but we know what some of the police officers, not all of them, because the majority of them are good officers, but there are several officers who are rogue elements, and they carry out the duties of whoever can advise them or encourage them or inspire them. So this is a serious matter.

The People's Partnership is not against the recruitment of a local police officer as Commissioner of Police. We are not against a Deputy Commissioner of Police who is a local. What we have difficulty with is the process. We want the process to be open, to be fair, to be transparent and to be accountable; that is what we are interested in. We want to make sure that when we vote for a police commissioner, that police commissioner is above board. His morals are high; his integrity is high; his honesty cannot be questioned. That is the kind of Commissioner of Police we are looking for, because that Commissioner of Police has 6,000 men under his command and they bear arms and they are very coercive. If you do not get the process right and you put the wrong person in charge of the police service, we may end up like Gairy's Grenada with a mongoose gang. We may end up like Burnham in Guyana. We may end up like Baby Doc and Papa Doc in Duvalier Haiti and a criminal in Philippines called Marcos, if you do not

get the process right.

A police commissioner is not an office you play footsie with. This is a serious matter. This is life and death. This is national security. We want stability; we want honesty; we want somebody who can build the morale of the police officers, but that person must be able to inspire confidence. We should not be debating in this House the validity of selecting a police commissioner, and whether it is right or wrong. This should have been done behind closed doors. The Government should have met with the Opposition and worked out this, so we could have come here and say, “We support this measure”.

You think we want to come in this Parliament and talk about our police commissioner? We are hearing names. We are hearing names being bandied about, and I will share that with the population in a short while, in terms of who the Government is seeking to promote, and they must deny it. Madam President, this is a very serious matter.

Because of my time constraint I cannot go into details as I would like to, but this is a matter that requires serious reflection. The Police Service Commission is an independent institution under our Constitution, and the Government must not use a subsidiary legislation, use subsidiary legislation to undermine primary legislation. They must not use subsidiary legislation to subvert and undermine and to overthrow the Constitution of our country. [*Desk thumping*] What they cannot get through with in the front door, they are coming through the back door with subsidiary legislation to amend the Constitution in an indirect way, and to undermine the independence of the Police Service Commission.

We cannot, as the loyal Opposition of the people, as the alternative

government in waiting to get rid of this incompetent administration. We want to ensure that we do what is right to protect the interests and defend the well-being and welfare of the citizens of this country. That is what we are about. We are about defending their rights. So when we look at this, we are concerned.

If you go now to the Order of 2015, there are so many other areas I can raise, but my colleagues will do so when they speak. Let us go to Order 219. The Order 219 which is Legal Notice No. 219 talks about qualification and selection. It tells you the whole process that should be undertaken. Again, the hon. Attorney General is here, and I am glad that he is here, he is my good friend. We would like the hon. Attorney General to tell us where these provisions came from in Legal Notice No. 219. I will give you an example of what we had in 2009, Legal Notice No. 101.

I want the hon. Minister of National Security, when he joins this debate, to explain to this honourable House whether he is in support of the deletion of provision three of this particular Order of 2009, which does not appear in 2015. We are selecting a Commissioner of Police, and we are telling this Commissioner of Police what are the qualifications he or she must possess and the core competencies or the core criteria he or she must possess. Hear what is said in this Order of 219, if you go to page 2 with me. The first thing is that person must possess leadership skills. What does leadership skills mean? That person must be able to motivate, must be able to inspire, must be able to engender trust, must be able to promote confidence in the members of the police service. That is one of the criteria set out in the Legal Notice of 2009. You know that disappears in the Legal Notice of 2015? So what is this so-called firm going to judge a person who is coming before it, as it relates to core criteria?

The second core criterion is management skills. Hear what it says in 2009. That person must be able to:

- “(ii) plan and organize operations;
- (iii) monitor and implement such plans; and
- (iv) identify and rectify problems.”

But we leave out that in 2015. Why, Minister of National Security? Why, Attorney General? Why?

Then communications skills—that person must have communication skills, be it written and oral, to:

“enable him”—or her—“to deal effectively with the media and community groups.”

That has been left out. It goes on:

“commitment to the cause of the organization;”

So you want a Commissioner of Police who is being interviewed by a firm, and a core criterion as commitment to the cause of the organization is left out. How can you do that?

Madam President, it also says that person must have the requisite vision which shall enable him to guide the police service in the specific direction which will serve the best interest of the organization. And most importantly, the No. 6 core criterion, integrity. A lot of us talk about integrity. A lot of us get on some moral high horse and talk about morality. I say morality at times reminds of a person who engages in rationale. It is a kind of rationalization, rhetorical rationality for expedient action and self-interest. People clothe themselves in moral garments when it suits them. So today they are immoral, tomorrow they are

moral, and they tell you who is moral and who is not moral. That is why they tell you this world is not made up of angels, but of angles, where men and women talk about moral principles, but they act out on power principles. That is what it is. It is about power; it is about self-interest; it is about promoting self-interest. That is what this thing is about. So the last one is integrity, having the courage of his convictions and known among his peers for doing the right thing, regardless of consequences to self and others.

Madam President, who could be against a police commissioner having integrity and being able to do the right thing. When Stephen Williams was called into the office of a former Prime Minister, and when he told the Senior Superintendent who is a lead candidate to become Commissioner of Police, “We have a plan, but you do not fit into the plan at this time. Step down, step aside”. Stephen Williams had the moral fortitude to tell that former Prime Minister, “Mr. Prime Minister, I respect you, do not disrespect me. I will not step down.”

**Sen. Khan:** How do you know that?

**Sen. W. Mark:** That was said in the *Hansard* and you never denied it, and you were a Member of the Government. That is in black and white in the *Hansard* record, and you, Leader of the House, never denied it. So I have to assume you knew what was going on; and you knew it was true.

We have a situation where six core criteria have been left out. Why have you left out these core criteria? Is it that you have seen an individual who can do your work? This is a Government since 1994 has been undermining the Police Service Commission. It is not now. Jules Bernard had to march around the Red House with police officers in 1994, because the Government did not like Jules

Bernard and a fella called Kenneth Lalla, and they wanted him out. The police had to march around the Red House to tell Patrick Manning, “Hands off the police service.” It almost had a coup in the country. Always trying to interfere with the police.

A former Prime Minister called Everard Snaggs at the Office of the Prime Minister in Whitehall and handed him the Instrument of Commissioner of Police. Never happened in the history of our country, but that happened with Everard Snaggs, again trying to interfere with the police and the Police Service Commission. That is the work of the Police Service Commission, not a Prime Minister. How the Prime Minister could call a Commissioner of Police and say, “Here is your instrument”; you want to put that Commissioner of Police in your back pocket.

I ask myself the question: Are the instruments that we are debating today an attempt by the Government to hijack the police service? What is the objective, Madam President? They must come clean. And I want to warn them today, you may have the majority, but it is a good thing we have the Privy Council. As long as the People’s Partnership is in office as Opposition, we will support the retention of the Privy Council. We will do that because we believe that we are getting fairness across there.

**Sen. Khan:** I hope you are speaking on behalf of the Leader of the Opposition.

**Sen. W. Mark:** I am telling you that so long as we are here, the Leader of the Opposition has made that very clear. But you know why you want the Caribbean Court of Justice, just as we know why you want what you bring here in a very secretive manner.



**Madam President:** Sen. Mark, you have five more minutes.

**Sen. W. Mark:** Yes, Madam President.

So as far as we are concerned, we have to be very careful. If you do not get this thing right, a police service can be transformed into the private army of a political party and carry out brutality against people in the society.

**2.15 p.m.**

And we cannot sit idly by and allow this kind of travesty to take place in our country. Is that what the Government is interested in? We are hearing names like Harold Phillip as the man that they want to make Commissioner of Police. We do not know. We want the Government to indicate that. We heard a name called, McDonald Jacob—some Senior Superintendent of Police. They say he might be the person. We heard a next name called, Vincel Edwards. They have targeted people. And the people are telling us. We are being told by the people that these are some of the elements that they have in mind to be the next Commissioner of Police. Let us know if this is true or not because we “doh” want you to bring a candidate here that the people are saying have already been selected by the political directorate. We want to know if that is true. Because you are not going to get this Opposition to rubber-stamp these things, Madam President.

And therefore, we serve notice on this Government, you may have the majority to defeat us today, but we will take you to the Supreme Court and we will take you as far to the Privy Council. [*Desk thumping*] Because we are convinced, Madam President, that these Orders are unconstitutional, ultra vires the Constitution. They seek to undermine the independence of the independent Police Service Commission. And we will not stand idly by and allow the PNM to ride

roughshod over the rights and freedoms of the people of this country. We are going to defend our democracy. We are going to defend the rights of the people, and we are going to do everything in our power to ensure that People's National Movement Government does not ride roughshod over the rights and freedoms and independence of institutions such as the Police Service Commission of our country.

Madam President, we have a lot to say, but time is not on our side at this time. But we serve notice on them. As I said, you may have the majority. Go ahead, pass it. The ayes have it. No problem. The ayes have it. But at the end of the day, the court will determine if you are right or if you are wrong. Madam President, with your leave, I beg to move.

**Madam President:** I need someone to second the Motion.

**Sen. Daniel Solomon:** Madam President, if I may, I wish to second the Motion and reserve my right to speak on this at a later time.

**Madam President:** The Motion has been seconded by Sen. Solomon.

*Question proposed.*

**Madam President:** Senators are reminded that they can also speak on Motion No. 2. Hon. Attorney General. [*Desk thumping*]

**The Attorney General (Hon. Faris Al-Rawi):** Thank you, Madam President, and may I again convey my gratitude for the opportunity to speak through you to the honourable people of Trinidad and Tobago in this very august Chamber, the Senate of the Republic of Trinidad and Tobago. Certainly a very different perspective, as I mentioned on the last time, sitting on this end of the House.

Madam President, it is my second time speaking in the Senate under the new

Standing Orders and 40 minutes goes very quickly. Usually I would have the opportunity to respond, seriatim, to the very many arguments put forward by my learned colleague Sen. Wade Mark. However, this is a rather truncated period, 40 minutes, and forgive me for diving directly into the answer to the issues. I do so for a number of reasons.

Firstly, so as to explain the position before the House, the Senate today. Secondly, and importantly to put onto the *Hansard* record the intention and proportionality behind the legislation which we now speak about. I have stressed the word “proportionality” because we as legislators in considering any Motion ultimately deal with the making of laws as we do under section 53 of the Constitution, under the supreme law of the land. We deal so within the parameters of our preamble which respects the democratic rights of the people of Trinidad and Tobago, due process, the rule of law and many others, but importantly in trying—albeit this is not a three-fifths majority debate—within the core provisions of the Constitution and borne alive now into the jurisprudence as to constitutionality is the concept of proportionality. What do I mean by that?

We are facing two Motions today which seek to posit that there is an unconstitutionality for a number of reasons as addressed by the learned Sen. Mark, including (a) an allegation for failure to consult; (b) an allegation that an improper process relative to the Standing Orders was adopted specifically with respect to Standing Orders 79 and 83—forgive me if I confuse them with the House Standing Orders. And thirdly, within the concept of their being a purported danger as a result of these matters.

There was general description of some form of a conspiracy theory by the

Opposition, that there is somebody who is known, that this process is polluted and that there is danger. But importantly, the hon. Senator posited that albeit that this was a majority debate to be had today, that this was simply the passage through to the Privy Council.

And very interestingly for the first time in six years we got a position from the United National Congress on the CCJ. I was very refreshed to hear this because having brought to life the CCJ by the Treaty of Chaguaramas, having committed to it, having skirted around accepting the CCJ for six years, having had the last Prime Minister say that they will take provisional and bifurcated access to the CCJ where only certain matters would go there, in breach of the Treaty of Chaguaramas mind you, today all of a sudden the UNC position is far from acceptance of CCJ, but instead maintenance of the Privy Council. And if it is indeed we are going to the Privy Council, it is incumbent upon me to cede into the record the proportionality of the constitutionality of this Order.

Secondly, the matters which definitively demonstrate that this is far from the mischief posited before the Senate today. This is far from an erosion of the powers of the Police Service Commission and its autonomy. In fact, what we have done today in discussing this is to bring to the light the fact that we have strengthened the Police Service Commission. And I will explain to you how we have done that.

Madam President, what we have done today is to act in conformity with two very important principles of law. One, firstly, to be found in the Constitution under section 75(1) of the Constitution. And secondly, to be found and aided by section 45(2) of the Interpretation Act. Section 75 of the Constitution provides that there should:

“...be a Cabinet for Trinidad and Tobago which shall have...general direction and control of the Government...and...”—there shall be collective responsibility.

And section 45(2) of the Interpretation Act provides:

“Where a written law empowers any person or authority to do any act or thing, all such powers shall be deemed to be also given as are reasonably necessary to enable that person or authority to do that act or thing.”

The Constitution of the Republic of Trinidad and Tobago was amended in 2006. There was a package of legislation, Act No. 6, Act No. 7, Act No. 8 of 2006 and a two-thirds majority was adopted to amend the Constitution of the Republic of Trinidad and Tobago specifically to do two very important things. One, to broaden and better the ambit of the Police Service Commission, and two, to give autonomy and financial responsibility and managerial authority to the Commissioner of Police. Specifically section 123 of the Constitution provides that:

“The Police Service Commission shall have the power to—

- (a) appoint persons to hold or act in the office of Commissioner and Deputy Commissioner of Police;”

And section 123A provides that:

“...the Commissioner of Police shall have complete power to manage the Police Service and is required to ensure that...human, financial and material resources available to the Service are used in an efficient and effective manner.”

So we have awesome authority provided to a Commissioner of Police. That authority is meant to be provided to a constant personality installed and insulated

from the vagaries of having to accept appointments from time to time, where that empowerment so that the police service can be efficiently and properly managed, confidence. We have a Police Service Commission that appoints these permanent positions of Commissioner of Police and Deputy Commissioner of Police. But where is the law in the context of Trinidad and Tobago today? Where are we?

From 2006 onward, Trinidad and Tobago has had several persons act as Commissioner of Police. Specifically if we go a little bit further back, 2003 to 2004, Everald Snaggs; 2004 to 2007, Trevor Paul; 2007 to 2010, an acting Commissioner of Police, James Philbert; 2010 to 2012 Dwayne Gibbs as Commissioner of Police; 2012 to present, Stephen Williams, acting Commissioner of Police for the seventh installation right now.

We have runaway murders. We had in the period of the last six years the worst detection and conviction rates in the history of Trinidad and Tobago. Homicides falling from 36 per cent detection and conviction in 2010 down to less than 3 per cent at one point in the last five years. Three out of every 100 people being detected and convicted for murder, including murder/suicide. So you catch two out of the three right there. Those are the facts. Where do we go from there?

We have had a position volunteered by several entities all around since 2006 come forward, we have had the position that there is a problem in the Police Service Commission and specifically there has been an identification that there are problems in the manner in which a Police Service Commission appoints a Commissioner of Police and a Deputy Commissioner of Police.

The annual reports 2013 go backwards: 2012, 2011, annual report 2010, 2008, '09, '06 all of them here. All of them are replete, page after page in

CoP and Deputy CoP (Selection Process)  
Order, 2015 (cont'd)  
Hon. F. Al-Rawi (cont'd)

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complaining that the process is too expensive, that the process is convoluted, that the process takes us nowhere. The engagement of authorities took considerable time in the context of the competing priorities of government, consolidated submissions finally reviewed. Twelve areas submitted for reform. So says the annual report 2008.

**Sen. Solomon:** Could you repeat. Tell me where you quoted from.

**Hon. F. Al-Rawi:** I was quoting from the Police Service Commission 2008 Annual Report, page 6, and I am giving the parameter of the period 2013 go back to 2006, saying that the Police Service Commission's annual reports are replete with references to the fact that the process by which a Commissioner of Police and Deputy Commissioner of Police are appointed is inadequate, inefficient, expensive and convoluted. Those are the Police Service Commission reports themselves.

The *Hansard* record is replete with references to this. Specifically in the period—in the *Hansard* report Friday, June 25, 2010; Friday, July 2, 2010; April 01, 2011; Friday, April 01, 2011 second reference. We have also *Hansard* records October 25, 2011 to the period March 27, 2012. We have in the period back prior to 2010 the debates in 2009 on the Motion to annul; the 2008 debates. All of these debates, and in particular I took note of the words of the hon. Member for Siparia serving as Prime Minister, where on the first Motion that came to Parliament on June 25, 2010, an undertaking was given by the then Prime Minister specifically to deal with the intolerable circumstance where one could spend \$3.4 million in one year through the current process, the 2009 selection criteria orders and procedures, \$3.4 million in one year to try to get names and nominees through Penn State University as a foreign firm.

**2.30 p.m.**

In fact, the hon. Prime Minister then went on to give a specific undertaking that there would be an immediate solution found to this and that there would be reform. That was followed swiftly by Dr. Moonilal, acting then as Leader of Government Business, who, in short also gave serious criticism in his debate Friday, July 2, 2010, to the cost. He said it cost \$8 million over a couple of years to produce a nominee, and that the nominee who could be so elected would not even earn \$8 million in the job post. Again, an undertaking was given in a Motion before the House on the Commissioner of Police Deficiencies in the Police Service brought by Fitzgerald Hinds then in the Senate October 25, 2012. Sen. Anand Ramlogan, the Attorney General of Trinidad and Tobago gave scathing criticism about how intolerable it was as a country to have no confirmed Commissioner of Police, and he had this to say:

When someone is acting, acting appointments in these critical offices connote something to the person who is acting. It sends a signal to the wider population at large. It carries with it certain undermining of authority of the institution of State.

What happened next? Addressing the issue of an alleged lack of consultation was that the Government of Trinidad and Tobago and the Opposition in Trinidad and Tobago together entered into an enterprise of consultation and production with several persons, and a multi-sector review committee was established. The multi-sector review team on the Police Service Commission was established to review this process. And that multi-sector review team, for the record, included: Chairman of the PSC, Prof. Ramesh Deosaran; Sen. The Hon. Anand Ramlogan



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SC, Attorney General; hon. Jack Austin Warner, MP, Minister of National Security; hon. Carolyn Seepersad-Bachan, MP, Minister of Public Administration; hon. Donna Cox, MP, Member of the Opposition; Chief Parliamentary Counsel, Ian McIntyre; Head of the Law Reform Commission, Samraj Harripaul; Dr. Kerry Sumar-Rhye, the Secretary; Mr. Aldwin Daniel and the Police Service Welfare Association, Sgt. Anand Ramesar.

And what did they do, Madam President, in time being short? They met six meetings as a review team; 15 meetings thereafter as a sub-review committee; one meeting thereafter to produce an addendum to the report. The Ministry of National Security then went on an excursion where it sat and met for nine times thereafter. So, that is 15 plus six plus one, 22, plus nine—actual meetings that they had. And what does a Government do? A Government governs, and there is a process of governance and a continuity of governance. Do you come and restart a process? Do you come and automatically ignore a written black and white report, not referred to by the hon. Sen. Wade Mark, who has piloted this Motion, studious avoidance of the fact that there we have in writing a report of the multi-sector review team, black and white, on the Police Service Commission which says that significant reforms are required, a two-thirds majority approach is required, autonomy should be given to the PSC, the Police Service Commission, the process by which you adopt needs to be drastically simplified so that the cost can be reduced. All of this is in black and white, not referred to.

So, has there been no consultation? There has been significant consultation. One may say that we may end up in a passage of analysis paralysis. [*Desk thumping*] Where is the line to be drawn? Listen to that phrase, where is the line to be drawn? I am taking the words of Lord Hope of Craighead in the leading case

as to constitutionality relative to the intrusion by the Executive into autonomous bodies, specifically the Police Service Commission, in the case of *Cooper v DPA 2006*, Privy Council case; I am taking those words directly from that judgment. Because that relates to the proportionality principle where I started.

And, Madam President, notwithstanding the then Government, the People's Partnership Government, which has been vigilant in doing something about it and bringing us forward, let me stick a pin and say, there has been no breach of process in coming to this Parliament. The Statutory Instruments Committee which was convened to discuss this matter had to abort itself because by filing of a Motion you cannot have any Statutory Instruments Committee. We are here as a Senate today dealing with it, because the process is there. Is the Parliament staff to be blamed? I will not go there. Is the Chief Parliamentary Counsel to be blamed? I will not go there. What I can say is that we are here under lawful authority of the Standing Orders and of the Motion before us, discussing this issue.

Removing that pin and jumping back to the argument right now, and going back to where the line is to be drawn, the last Government having had significant consultation together with the People's National Movement omitted—now in Opposition—to indicate that there was a 10-point plan produced, and that we as an Opposition—in this Senate I sat right opposite where I am now for five years in Opposition, and I can tell you the record will demonstrate that we supported 97.6 per cent of the legislation that came into the Parliament. [*Desk thumping*] And time after time when the Government needed to move an agenda forward, particularly on crime and security, we assisted 96.7 per cent of the time, or 97.6 per cent.

What happened then? A simple thing, like making sure we gave up a Private Members' Day. We did. Time and time again without debate. We heard today from the Opposition, "you should consult us". Let me give you an example: we had the experience of consulting the Opposition yesterday and day before on a simple matter of explaining that the accounts of Trinidad and Tobago needed to be closed by January 31st. That it takes the Auditor General four days after the exercise is finished, that the Senate had to meet, that the House had to meet, and therefore we said, because these are your accounts when you were in Government to close off, we would like most respectfully for you to agree to give up your Private Members' Day on Friday, we will give you the Friday after as a guarantee—you know, that could not happen?

So, we must consult with them now, after we consulted for six years straight on this issue, have a written report on the issue, and we cannot even get their cooperation to agree that the Government of Trinidad and Tobago's statutory mandate in closing the accounts of Trinidad and Tobago should take priority because of the strictures of time. That is an impossibility. And today I hear Sen. Mark volunteering that the Opposition is there as the panacea for consultation and solution finding. Most respectfully hon. Senator, methinks that your actions speak louder than your words. [*Desk thumping*] May I say this, the Opposition now, when in Government, went from the Attorney General's condemnation of an acting position of Commissioner of Police. It was intolerable in 2011, hear what the Attorney General had to say in the *Trinidad Guardian*, "Top CoP failed in tackling murders". Here is what the Attorney General had to say:

"On the issue of appointing a police commissioner, the AG described that as a 'red herring' ...someone will be forced to perform..."

He says this in relation:

“I am in fact not an advocate at all of having the commissioner of police appointed on a permanent basis in the first instance.”

Government policy.

“‘If they appoint someone on a permanent basis and the man eh performing and in the six months the murder rate doubles, what yuh go do?’ Ramlogan questioned. He said when someone was acting the performance would be also reviewed from time-to-time. He added: ‘One would expect they would want to give their very best so that they can get the job. You are acting and you want to give it your all...go beyond the call of duty and you will be judged by that.

You will then be able to get the best out of that person because they will want to relieve themselves of the acting status and prove they are the best man for the job. So if you make the man permanent, when he sleeps and gets up, a crime plan does appear underneath he pillow? It is completely illogical and irrational,’ Ramlogan argued.”

That is the *Guardian* newspaper article by Geisha Kowlessar, Thursday, January 30, 2014. How far from 2011’s position. How far away from 30-something-plus consultations and a written report that Government position is as equally far as the CCJ and Privy Council position is now by the Opposition. So, where are we now, Madam President?

Madam President, the fact is we are dealing with constitutionality. The argument has been placed on this Table that the use of the word “Minister of National Security” as a trigger, as the Opposition calls it, is an undue intrusion into

the autonomy of the Police Service Commission. I am rephrasing the argument to put it succinctly. What does the leading authority on this area of law have to say as I mention? *Cooper & Anor v the Director of Personnel Administration 2006*, UK Privy Council 37 at page 101. Again, as I have said, it is Lord Hope of Craighead. Lord Hope of Craighead canvasses, a very learned judge of the Court of Appeal, God bless his soul, Mr. Justice of Appeal, Wendell Kangaloo, who said at paragraph 15 of his judgment at page 128:

That it is not correct to say that any involvement by the Executive in the affairs of the police service was unconstitutional.

And the learned Privy Council judge specifically drew the issue in this context, where is the line to be drawn? As I posited earlier, and in expressing the issue as he did at paragraphs 26 to 28, there is very useful guidance to be had. Their lordships considered specifically, the now famous dicta of Lord Diplock as it arose in the case of *Endell Thomas v the Attorney General of Trinidad and Tobago, 1982*; WLR—I forget the page, 132, sorry WLR 601.

And Lord Diplock specifically drew, as Sen. Mark lifted from it, the caution as to the autonomy argument, the need for caution in intruding in the autonomy of the Police Service Commission lest you had a runaway police service. But, what Lord Hope of Craighead said is that the promotion, et cetera, must be exercised free from interference or any kind of influence by the Executive. And I want to spend a second on the facts. This case that went to the Privy Council was about an advertisement where the Police Service Commission, when challenged as to why they had not produced examination results, the Police Service Commission said it is not me, it is the public service examination board, they are appointed by the

Cabinet. And they said so on the context, on the background of that position of public service examination board having performed examinations across the public service since 1966.

Essentially, the Privy Council said, look, that publication was wrong, the fact is you cannot abdicate your right, you as the Police Service Commission need to have the autonomy to select whether you do this or not. Let us put that into the context of where we are today. Order 218 of 2015 says specifically, the Minister of National Security—it says here, well, first of all, paragraphs 1, 2, 4, 5, 6 and 7 are almost in exact terms save for the change of a date. The serious change happens in paragraph 3, which is the prescriptive positions. Paragraph 3 and the Order itself is invoked by virtue of the platform in the Constitution, section 123(2) which says, “you shall exercise your power to appoint in accordance with the statutory instruments”. I have already demonstrated how the Interpretation Act says, “you read into a power all the powers necessary to perform the power”.

And the Government has elected in removing the convoluted steps from the 2009 Order, which mind you the UNC complained about to no end when they brought a Motion to deal with that, but which they adopted in 2010, utilized to appoint Commissioner Gibbs, 2009, criticizing the Orders that came up in 2009, saying they were no good, terrible, the worse; 2010 they applied the Orders, they selected Commissioner Gibbs using the process, and now in 2015 they come to say, well, the Orders are the best, tell us why it is being changed? Undue influence. What we had there, in removing the process in subsection (3)—

**Miss Ameen:** That is not true.

**Hon. F. Al-Rawi:** It is true. What they had said in subsection (3) is they have put,

in fact, a position where there are two sides of a coin. On the one hand the 2009 Orders are prescriptive, they give you ball by ball, seven days' advertisement, this, that. The 2015 Order, however, utilizing the Interpretation Act, adopts a framework approach. Because, what we have said in this Order is that the commission—and the commission is defined as the Police Service Commission—shall in accordance with 20A(1)(c) of the Central Tenders Board Act, contract an appropriate local firm to conduct a recruitment process. Let me deal with that specifically. It is the commission that contracts.

**2.45 p.m.**

The Minister requests that the commission contract, reading the powers into it, pursuant to the Interpretation Act. They have the power to do that. Using the Central Tenders Board Act—now Sen. Mark said, tell us where section 20A(1)(c) comes about. It comes from the 2009 Order, Sen. Mark. It is the same wording as the 2009 Order that you used the same NIPDEC you just complained about to do the procurement. So the answer is, it comes from 2009.

Number two: NIPDEC itself was going to be dealt with by virtue of a firm. The 2009 Order says:

“...the Director of Personnel Administration shall...contract a firm...”

No definition of a firm. We do not know if it is multinational, we do not know if it is local, we do not know what it is about. Same wording has been used, that instead, the commission, the Police Service Commission in this instance hires a firm. The Police Service Commission said they wanted more autonomy. We specifically gave to the Police Service Commission the autonomy that they seek, specifically using the exceptions to procurement by virtue of Government. Now

what is the mischief here?

Trinidad and Tobago can witness, 2012, 2013, 2014, 2015, 2016 we now stand, 2016, and the Director of Personnel Administration has yet to approach a firm or to have a firm secured to commence this process. Five years, Director of Personnel Administration has not done the job. The last Government did not do the job. We must engage in more analysis paralysis after deep consultation, but where do we go, Madam President, if there is a mischief afoot and you want to do it, how do you do it whilst balancing the proportionality, whilst making sure you do not intrude into it. What you do is you enter into a co-sharing arrangement. You preserve the autonomy of the Police Service Commission and you specifically allow them to do the entire process. The Order, I invite hon. Senators to look at, specifically says in 3(e):

“the Commission shall...take into account all information on the candidates and thereafter establish an Order of Merit List...”

We remove the limitation that says that they could only resort five of them.

“the Commission shall select the highest graded candidate...”

But why use NIPDEC, why keep the section 20A(1), because the client is the Police Service Commission, not the DPA who has done nothing. The client sets the terms of reference for the firm. The Police Service Commission says what it wants to do, what it wants to advertise, what degree of consultation must be had, how it is to be interacted with, when lists are to come, it says if it wants more information; they shall have the autonomy.

Why would a Government of Trinidad and Tobago not give them that autonomy by putting prescriptive processes in place which limit it. By giving a



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DPA which has been incapable on the facts of dealing with the position. How do we find a solution is the question? Have we intruded into the autonomy? I want to invite you to the use of the word “shall” in the Order. There is a plethora of learning which demonstrates that the word “shall” may be read as the word “may”.

**Madam President:** Ten minutes.

**Hon. F. Al-Rawi:** Thank you. That is to be found. Extract from the book, *Legislative Drafting*, VCRA Crabbe. Extract from the book, *Bennion on Statutory Interpretation*, section 10. It is to be found *Julius-v-Lord Bishop of Oxford and Another, 1874 to 1880*. It is to be found in *Regina v Tower Hamlets London Borough Council, Ex Parte Chetnik Developments Limited*. A plethora of laws which say that it is meant to be directory, it is not meant to be mandatory.

But why do you want the Minister there in the first place. All that the Minister does in this Order when you read it carefully is say to the commission, listen, can you please commence the process? Thereafter it is entirely yours. Can the commission say, no? Yes, it can. But by having the Minister have the right to at least knock on the door they must now provide reasons why they are going to say no. And if you have reasons you are able to be held to account through due process.

Can you compel them to act? By virtue of having at least an answer you could approach the court to say, listen [*claps hands*] five years passed, no Commissioner of Police because they did not advertise. Could you please get on with it, and encourage the court to lend you some assistance. Can the Police Service Commission act autonomously? Yes, it can. Is it the entity to choose the Commissioner of Police? Yes, it is. Who tells the firm what to do? Only the

Public Service Commission, not the DPA, because that is how we have changed it. We have taken it away from a member of the Executive, listen, the DPA is not an office holder in the Judiciary, nor is the DPA a member of the legislature. Therefore the DPA is a member of the Executive.

So if you are going to say that it is the Executive intruding by the personality of the Minister, it is the same Executive to Executive argument. Can there be intrusion? No, there cannot be intrusion other than asking for a request and waiting for an answer, either yes or no. And that is it. How does that fit into the modern theories of law? Specifically, I invite hon. Senators to *Fundamentals of Caribbean Constitutional Law*, by Tracy Robinson, Senior Lecturer Faculty of Law, University of the West Indies, Mona; Dr. Arif Bulkan, Lecturer Faculty of Law, University of the West Indies, St. Augustine; The hon Mr. Justice Adrian Saunders, Judge of the Caribbean Court of Justice. And there is positive there at page 334 in paragraph 7035, a concept called the need for operational flexibility. And it says:

A rigid separation of powers is neither desirable nor possible. Modern governments require the cooperation of various personnel and powers; so that maintaining a rigid separation among the branches would be counterproductive and inefficient. In the worst case scenario it could thrust the Executive and Legislature into antagonistic positions leading to a deadlock government. By contrast, participatory process of decision-making can promote good governance through collaboration and the efficient use of scarce resources.

But I want to draw you in particular to this, at page 335:

Another dimension of overlap between the branches is counter-intuitively perhaps its potential for promoting intra-branch accountability by preventing the concentration of power in any single branch. Some diffusion of functions allows one organ to act as a check on the other, reflected in the Constitution by provision which facilitates interplay between branches in the appointment process for high offices. The doctrine is only violated where one branch purports to exercise the whole of the power of the other, whereas diffusion in the form of a partial spread of power operates as checks and balances would. The search is for maintaining fidelity to the paradigmatic function which each branch alone is empowered to serve even if some aspects are shared with another branch to some degree.

So, Madam President, those excerpts from this thing are drawn from the sources of authority, *Thomas v the A.G. 1981 3WLR 375. Cooper & Anor v Director of Personnel Administration & Anor.* James Madison, *Federalist Papers.*

**Madam President:** Hon. Attorney General, you have five more minutes.

**Hon. F. Al-Rawi:** Thank you, Madam President. So what am I saying here? Inefficiency in the system. Undue expense in the system. Analysis paralysis. Significant consultation. A Commissioner of Police under section 123A to be appointed with massive powers. The last Government sat down for six years nearly and did a lot of consultation, together with the Opposition, but what is the end result, “shoulda, coulda, woulda”, nothing.

Not to blame them, this happens to the best of intentions at times. But where do we go now? How do we deal with the balancing line? Where is the line to be drawn between striking the balance where you do not intrude, as an Executive, into

the ambit of an autonomous entity under the Constitution? How do you strike the balance? Well you strike the balance by empowering the PCA, as we have done, to prescribe its own process, come up with its own rules as the client to NIPDEC, prescribing its own terms of reference. They are in charge of it. You give them the opportunity to say we have the sole autonomy, we will do it.

The Executive has a corollary right in this point, a corollary opportunity to knock on the door and say, PCA could you please ask for a firm to be appointed? That is it. PCA can say, yes. It can say, no. It could say jump off a cliff. What does the Minister then have? The Minister has the opportunity to say that the review of the reasons is now called for and that you are not doing it, you are not performing your function and therefore you can have that interplay, that correlation where you, without stepping on their autonomy, you allow for the process to be advanced. That, ladies and gentlemen, hon. Senators, through you, Madam President, takes us back to where I started. That is called proportionality. Be it De Freitas and the Attorney General, leading case on proportionality; be it Northern Construction as the Court of Appeal has construed. Whatever the cases may be, proportionality is the key word in today's lexicon. Proportionality is the key word in today's jurisprudence.

As a matter of fact, the Government is saying that prescribing that a national of Trinidad and Tobago should be appointed is a good thing. We are saying that removing the 12-year limit for a Deputy Commissioner of Police down to 10 years is a good thing; why? It broadens the category. It encourages succession planning. We have removed the core requirements because it is time to lift the bar. Why do we want somebody without a university degree, without specific training which is specified? Why settle it down just to 20 years? We have enough talent, when you

look at the police service in Trinidad and Tobago, to more than be able to fill the post of Deputy Commissioner of Police without having to take a second tier requirement. The process is there. There are nationals of Trinidad and Tobago who exist all over the earth. They do not have to live here, they just need to be a national here.

So there is proportionality in 219 and 218 of 2015. Simple summary point. As a Government having been elected through democratic process, there being a need to advance the process, there having been deep consultation in the process as is evidence in writing, as is evidence on the *Hansard*, there having been no performance to move us forward, time to get the job done.

**Hon. Senator:** That is right. [*Desk thumping*]

**Hon. F. Al-Rawi:** We faced the polls. The management of crime and security starts with a permanent appointment for a Commissioner of Police and we have no horse in the race. We have no one in the race. What we have is democracy, preservation of autonomy for the Police Service Commission foremost in mind. We have emboldened and empowered them to do their job. We have told them, you come up with your process and terms, all we want is the opportunity to knock on your door and say, look can you start the process? Tell us whether you will or whether you would not and we will consider what we should do after that within the confines of due process, proportionality being the driving factor.

There is so much that could be said on this. Forty minutes, a very limited time. I do hope that hon. Senators would consider the deep rationale behind this. I thank you for the opportunity to contribute to the Senate and to the hon. Senators present and through you, Madam President, to the people of Trinidad and Tobago

and I do hope that you recognize the bona fides. Enough is enough. No more analysis paralysis. There has been adequate and full and complete consultation in this process and it is proportional and democratic. Thank you. [*Desk thumping*]

**Sen. H.R. Ian Roach:** Madam President, I am pleased to join in this debate on the Motion on the Appointment of the Commissioner of Police and Deputy Commissioner of Police (Qualification and Selection Criteria) Order, 2015. And of the Commissioner of Police and Deputy Commissioner of Police (Selection Process), Order, 2015 be annulled.

These are pieces of legislation before the honourable Chambers which I believe should be a top priority to the Government and should be properly scrutinized and if satisfactory given support and efficacy.

Madam President, for the past 12 years or more the police service in Trinidad and Tobago has been without an appointed and confirmed Commissioner of Police as the designated head of this nationally essential professional organization. It has been my professional experience and observation that there are way too many acting officials throughout the three commissions in this country, namely, the Police Service Commission, the Teaching Service Commission and the Public Service Commission. One can easily be bemused and say it is Hollywood in these commissions. I have known persons acting in posts in government for more than 10 years, 15 years, 20 years, and who have even retired while acting without receiving the “Oscar” they may have deserved.

**3.00 p.m.**

In many of these cases, the acting public servant, or public officer, leaves demoralized after having given committed service during the course

of their employment. The tardiness in such situations ultimately manifests in a pension of the public servant—that is to say, the retired acting officer would not receive a pension based on the higher office he or she acted in as it would not have been that one's substantive appointment.

Acting officials are left in a constant state of suspension and uncertainty career-wise and that can be readily appreciated by any employee who is, or was, in a similar circumstance, unable to plan their careers, whether to stay or move on, or plan their financial future on a specific level of income, and all the other attendant mischiefs that go with such uncertainty.

Madam President, the patent distrust of politicians across the board in our society had led to the public being understandably suspicious of the Government's motives and management of state affairs in every regard and make the resolution of this untenable situation more urgent than ever to have the appropriate mechanism put in place whereby a commissioner can finally be chosen and duly appointed.

I would like the discerning public, whose interest we seek, to appreciate that Commissioners of Police are more often than not professional police officers, but in some jurisdictions in the Commonwealth, like South Africa, they may be appointed politically by the Government of the day. Basically, the commissioner is the manager of the police service who is responsible for the day-to-day running of the organization.

In the case of the United States of America, a number of states use different methods of appointing their commissioners. For example, in New York and Boston, the commissioner is a civilian political appointee of the mayor who may or may not be a professional and experienced police officer. In the case of the United

Kingdom, the commissioner is called the Chief Constable and is appointed by a Police and Crime Commission, otherwise referred to as the PCC, who are themselves directly elected representatives, whose duty it is to ensure that the number of police forces in England and Wales, excluding greater London, are functioning effectively.

The idea for this proposal, I am informed, and believe, was to replace police authorities and introduce a public voice for policing. The Government of the day insisted that the PCC was not created to run local police forces but to hold them to account and respond to the needs of the public. The idea was to give local people more say in how the police in their area were run and was a way of boosting local democracy. There was a proposal for such in a White Paper entitled: Policing in the 21st Century, which was enacted in the Police Reform and Social Responsibility Act and became law in 2011. This is the United Kingdom.

Madam President, my research discovered that there were 41 posts of the PCC covering England and Wales, not including London. And in the elections held in 2012 to fill those posts, the Labour Party and the Conservative Party fielded candidates in each area, with the Liberal Democrats offering 24 candidates. The results were: Conservatives, 16; Labour, 13; Independent, 12 and Liberal Democrats, none. Among the successful independent candidates were eight former police officers. Most were barristers and an ex-pilot.

The PCC's term of office is four years with a maximum of two terms. The next such election will be held this year, 2016. Those public elections of the PCC across England and Wales were described by the BBC as the biggest shake-up of policing for almost 50 years in the United Kingdom. In the case of greater



London, the commissioner of the Metropolitan Police continues to be a royal appointment on the advice of the Home Secretary of England and Wales, and a directly elected mayor acts as the Police and Crime Commissioner for the metropolitan police area.

The Police and Crime Commissioner's responsibility includes: appointing the Chief Constable—which is equivalent to our Commissioner of Police—of forces and dismissing them when necessary, holding the Chief Constable to account for the performance of the force's officers and staff; providing a link between the police and communities which includes consulting local people, their council and other organizations; overseeing community safety and the reduction of crime and ensuring value for money in policing; setting out the force strategy and policing priorities through the police and crime plan; setting out the force's budget and community safety grants. Taken together, the commissioners are responsible for over \$8billion of spending on police in England and Wales.

I have cited these examples to show that the selection of commissioners are differently done in other jurisdictions, some directly involving politicians and some civilians. The fact is, we ought to rise to the task at hand and determine what is the best practice for the selection of the Commissioner and Deputy Commissioner for Trinidad and Tobago. We may consider other processes, but at the end of the day we must determine our own destiny in a spirit of mature deliberation to succeed where others have failed. To fail at this time is not an option we can afford, given the high security concerns we all share as a nation.

Madam President, I have listened and followed the debate of these two Motions in the other place with great interest so as to appreciate the positions of

both the Government and the Opposition. The challenge I faced in so doing was first, at times, to get past the apparent hypocrisy and what was irrelevant to the debate. Madam President, I have been saying of late, and I have also heard members of the public express the view, that the major issue facing successive governments in this country is confidence. It is a widely accepted view that in Trinidad and Tobago governments are not voted in but voted out. All past governments have been voted out of office because of loss of confidence in pursuing the best interest of the people. All the governments will say that they are, in fact, seeking the public's best interest. The reality is that actions speak louder than words and the public always has the final say, giving rise to a number of one-term governments in recent times. There is the need, therefore, for all Members of Parliament to behave in such a way that would engender the deep confidence of those who elected them to serve the people of Trinidad and Tobago's best interest when handling public affairs.

There were issues raised by the Opposition that caused me to pause and pay further attention to what I had considered beforehand. I paid particular attention to the issue of consultation addressed by both Government and Opposition. Madam President, I was immediately reminded of the debate on the Municipal Act when the then Government sought to change the first-past-the-post method of voting without engaging in proper consultation with stakeholders, and I took a stance against that. As the Opposition, it now sees the light and appreciates the value of consultation on matters pertinent to the public.

If, as raised by the Opposition, there is any merit in the claim of a lack of consultation with the stakeholders, I may have to reserve my support for the two Orders as is. On the other hand, Madam President, the contention by the

Government is that it has not transgressed the separation of powers by the Executive by giving the Minister of National Security the power to trigger the process in the selection of the Commissioner and a Deputy Commissioner. The issue of a local firm selection has also been a source of contention by the Opposition. However, both the Government and the Opposition have concurred that there is a need for the appointment of the Commissioner and Deputy Commissioner of Police as a matter of urgent national concern deserving appropriate action to rectify same.

There are two critical issues that are fundamental to deciding whether I support the Motion or not. The first is, whether there was proper consultation on the advent of the Order, now law. If, and only if, there was proper consultation, would the other issue arise of whether or not the Order provides for a procedure of selection that can be considered best practice, transparent and that generates confidence in the public, so that the appointees will be accepted, by and large, in the public jury of opinion.

Madam President, I take my guidance on the issue of consultation raised by the Opposition from the seminal case of *R. v North and East Devon Health Authority, Ex parte, Pamela Coughlan, 2000, One All England*, page 850. The Supreme Court of Judicature of England and Wales Court of Appeals stated under Consultation at paragraph 108 that:

“It is common ground that, whether or not consultation of interested parties and the public is a legal requirement, if it is embarked upon it must be carried out properly. To be proper, consultation must be undertaken at the time when proposals...allow those consulted to give

intelligent consideration and an intelligent response; adequate time must be given for this purpose' and the product of consultation must be conscientiously taken into account when the ultimate decision is taken.”

The question that arises for the Government to answer is whether, through this debate, it can demonstrate satisfactorily that, in fact, they had proper consultation with the stakeholders concerning the specific aspects contained in the two Orders before these Chambers.

Madam President, my concern primarily is one of procedure adopted by the Government. Let us say, for argument's sake, that the Government was not under a legal obligation to consult the stakeholders as is the case when dealing with primary legislation, the issue may then turn out to be more political rather than legal per se. What I mean to say is, no consultation notwithstanding, the duty may have been required before giving effect to the two Orders, given the importance of the offices that are sought to be filled, the challenges in efficiency of the police service, the public perception of distrust of the Government's motive and actions, and the fact that the public confidence is critical in the support of whichever candidate is selected to lead the service. Perhaps the Government should err on the side of caution and have proper consultation, if that was not the case before the two Orders were published and given effect to.

Madam President, I really do not have an issue with the selection of a local firm, for I am all for confidence in, and promotion of, home-grown talent and resources. Over the years we have produced some of the most accomplished individuals in every sphere of national life. So, for me, a local firm can, and

should be the preferred choice any day to be used in the selection process.

My other concern with the Legal Notice 218 Order, 2015 selection process is section 5 thereof, that the Order of Merit list shall be valid for a period of one year.

I have practised as a public and labour lawyer for some 27 years now and I have encountered too many matters dealing with merit list resulting in litigation. The interviewing process in the commissions—and I am not here making reference to the Judicial and Legal Service Commission, but the other three commissions which I have had dealings with, is too long, conflicted by dates of appointment, in the case of candidates securing the same scores upon being interviewed and placed on the merit list. The most disheartening, the lapse of time between being placed on the merit list and the appointment to a vacation post, which may take place after the expiration of a year. For these reasons, Madam President, I will humbly suggest that the Government consider extending their time to two years. One year is way too short for the wheels of public bureaucracy to roll.

Madam President, I also have no problem with either the qualification listing for the Commissioner and the Deputy Commissioner, nor do I have any issue with the Minister of National Security being, so to speak, the trigger to commence the selection process. It is often forgotten by many of my esteemed legal colleagues on both sides and in both Chambers that the recourse to a judicial review application is always available either to compel a public official figure into action when necessary or to quash that which may have been done improperly, unreasonably or irrationally, among other possible flaws as the case may be.

**3.15 p.m.**

Madam President, in closing, I must ventilate my continued concern for the

unduly long sittings of these proceedings, from early in the day and sometimes into the wee hours of the morning. It is not good for anyone's health to sit in this cold environment for such long durations, and it is inconsiderate for the listening public who wants to follow live the conduct of the people's business. Not to mention the diminishing returns in terms of mental productivity this would cause in all Members of these Chambers, which ought not to be the case when dealing with the people's business.

I lamented on same while in the Tenth Parliament and often got support from then Opposition and fellow Independent colleagues. Now the sides have changed but the tune remains the same so to speak. I am hoping that serious considerations can be given to putting a stop soon to these ungodly graveyard sessions. Whether one is differently abled or not it is unacceptable, it is injurious to one's health and counterproductive.

Madam President, with those few words, I thank you. [*Desk thumping*]

**Madam President:** Sen. Solomon.

**Sen. Daniel Solomon:** Thank you, Madam President. I am privileged here today to speak before this honourable Chamber, and I just want to reiterate and support my fellow Independent Sen. Roach's comments regarding the graveyard hours and the productivity. It comes a time during the course of these sessions when we go into a period of negative productivity. I think we do best when we are rested and we can perform at our optimum. I understand the pressures on the Government to get things done, but perhaps proper planning, proper scheduling will help us to get where we are. So I do support my comrade, Sen. Roach, in that manner. [*Desk thumping*]

Madam President, if I could just introduce by saying that the primary purpose of any Government is to provide security for its people, for its citizens, and I want to start by saying that I do not think that this should be as adversarial as it may appear. The Opposition is begging, imploring the Government to consult, to work with the stakeholders, so that we could come up with a proper solution for something which we all hold dearly, and that is to solve this problem, the scourge of crime which is plaguing our society. And I agree with the Attorney General when he says that crime is a runaway horse.

Unfortunately, he is in charge now and he must consult with all the stakeholders in order to properly understand how to tackle this very complex matter. It is not just a matter of simply going behind the back door and surreptitiously coming through with some Orders in the dead of night and saying here deal with that. That is not what this is about. This is about a serious matter that requires consultation.

In fact, the Orders that we presently operate under were done under mammoth cooperation between the then Patrick Manning and Basdeo Panday, and it was tantamount to something that was historic as both parties and the Parliament, we can say proudly now, came together to solve this scourge of crime. We must do that now. We must stop this petty politicking over something that is so serious, Madam President, that it must be dealt with together. [*Desk thumping*] So to the Government we are open to you, we are available to you, we want to help, we are here to help, we are here to be consulted. This is not an adversarial matter. This is a matter of national and patriotic importance.

I am not alone in the feeling that this needs consultation. I can refer to you,

if I may, Madam President, *Newsday*, Monday 18th, an article written by Andre Bago.

“THE CHAIRMAN of the Police Service Commission...— the Constitutional body charged with the appointment of the Police Commissioner — yesterday said the”—Police Service Commission—“was not consulted by Cabinet prior to last...issuing of two legal notices which propose a new process by which the country’s top cop is to be chosen.”

And this is a direct quote:

““The”—Police Service Commission—“ ‘needs to be consulted and there has been no consultation’, said Dr Maria Therese Gomes...”—the chairman of the Police Service Commission

““This is disconcerting and disrespectful in light of the constitutional role which is meant to be played by the”—Police Service Commission—““as well as the need for teamwork and combined expertise in reforming this process.””

Now, my colleague and learned friend in the law fraternity, the hon. Attorney General, a man who I have great time for, went to great lengths to assert that there was consultation and there was extensive consultation. Well with whom? With whom? You are saying to this honourable Senate that consultation is when you read a report. This report is dated June 2012 and there is nothing that I have seen in this report, which was prepared by the People’s Partnership Government, which understood the need for consultation and went through great lengths in producing this document that indicates that there is any recommendation from this report that is included in these legal notices. The two do not follow.



Reading a report and consulting with the stakeholders are two different things, and to try and shove it down the throats to the people of Trinidad and Tobago that this is consultation is nothing but insulting. [*Desk thumping*] Talk to the people, they have the answers. The people in the business of public service commissions understand the challenges. Support them, give them the tools, talk to them. They have been dealing with it for years. Talk to the Opposition; we are here to support. Talk to the police associations; they are involved in the business of solving crime. It is not a simple matter and it is not something that can come across in the dead of night and say we have the answer here, take that; and we consulted because we read this report and we read that report. That is not acceptable to the people of Trinidad and Tobago.

If I may with your indulgence, Madam President, *Newsday*, January 19, 2016:

“FORMER chairman of the Police Service Commission...Professor Ramesh Deosaran yesterday warned against what he termed the ‘privatisation’ of the process by which a Police Commissioner is chosen, calling instead for a greater role to be played by the PSC as a Constitutional body.”

And I want to really emphasize that our nation was built on the structure of these institutions, and the independence of these institutions, it is fundamental to the proper functioning of the society that these institutions are protected from any sort of political interference. I do not think that my honourable friend, the Attorney General, will disagree with me because he has a deep understanding of the jurisprudence of law as I do and he understands the need to protect them.

**Hon. Al-Rawi:** Agreed.

**Sen. D. Solomon:** Thank you, my friend. Now he goes on to say:

“In view of this guava season, it would be more appropriate to let the”—  
 Police Service Commission—“do the exercise’, Deosaran said. ‘I don’t see  
 any harm in that.

Otherwise, what you are doing”—you are coming—“through the back  
 door”—and—“privatising”—a—“process unnecessarily.

We should raise the bar in having a Constitutional authority hire the post-  
 holder for a Constitutional office’.”

That is a significant statement coming from a former chairman of the Police  
 Service Commission.

“This whole situation needs more thoughtfulness in the immediate period,  
 and in the longterm’, Deosaran, who is also a former Independent Senator,  
 said.

‘If we go about what we are doing now in the manner that we are doing it,  
 we may not do much better, and we may still end up with a convoluted  
 process.’ He called for caution from all MPs this week during the planned  
 debate...”

And this is the argument that I take issue with, that we are being told that  
 this is in the interest of efficiency—analysis paralysis. It would have been a lot  
 more efficient and a lot more proactive if the Government took the time to consult  
 with relevant stakeholders. [*Desk thumping*] This sort of ambush business is not  
 how we want to run the country. We want to work with the Government to solve  
 the problems. You can get the three-fifths majority that is required for the  
 Constitution, but you must work with us. You cannot come through the back door

and surprise attack and ambush us in this way. That is not acceptable for us.

The Police Service Commission, the stakeholders, the police associations and the police officers who run this country, they deserve the best independent Commissioner of Police, free from political interference, free from any type of interference that we can provide, and this is why we have taken such great care in protecting these service commissions. Not only the Police Service Commission, the Public Service Commission, the teachers commission, and it is all enshrined right here in the Constitution of Trinidad and Tobago.

Now, the Attorney General mentioned, I believe section 75(1) of the Constitution, and if I may hon. Attorney General:

“There shall be a Cabinet for Trinidad and Tobago which shall have the general direction and control of the Government of Trinidad and Tobago and shall be collectively responsible therefor to Parliament.”

True. That is true. However, that does not give you the right to go against the Constitution itself which protects the service commissions, and the service commission says, section 123(1):

The Police Service Commission shall have the power to—

- (a) appoint persons to hold or act in the office of Commissioner and Deputy Commissioner of Police;
- (b) make appointments on promotion and to confirm appointments;

Now this is a serious, serious, serious document. This is the superior law. You cannot come through the back door to try and obtain stuff that may influence and arrogate and take away from the powers of the service commissions. All of a sudden now there is a Minister of National Security—and no disrespect to the

actual Minister of National Security, an honourable gentleman who I have the pleasure of working with in several committees. It is the position, it is the principle of democracy that needs to be protected. Why is it that all of a sudden an Executive politically appointed Minister is now involved in the process at all? Hitherto not involved? Why is that so? You want to be able to say he is the person who will then instruct the commission if I am correct in what the Attorney General was saying—that he will instruct—on his request the commissioner will then contract a local firm. So let me see if we have this right.

In walks the Minister of National Security, instructs the commission to appoint a private firm. Just so? Why? Why the need for that? Suppose the ministerial fiat is not given and the Minister of National Security decides I am not going to do that, you know what you end up doing? You end up hamstringing and hog-tying the Police Service Commission from doing anything because they cannot act without a fiat from the Minister of National Security. So you have to look at both sides of it, efficiency, analysis paralysis, let us get this done. All of these are nice catchphrases. This is not a Nike advertisement. This is serious business. [*Desk thumping*]

**Hon. Al-Rawi:** Nice one. [*Laughter*]

**Sen. D. Solomon:** I apologize, but I do have the greatest respect for the hon. Attorney General.

Madam President, when we come to the business of interference with the Constitution and the pillars of democracy, it is a slippery slope. It is a road that is a short road and we know full well that it could end up in dramatic, incredibly difficult situations and impositions on the security of our citizenry, our democracy,

the way our Parliament operates. We have seen it as my comrade has said before, you see the tonton macoute from Haiti. They are not far away. They are right there in the Caribbean. You see Gairy and the mongoose gangs in Guyana—  
[*Interruption*]

**Hon. Al-Rawi:** Next door.

**Sen. D. Solomon:** That is right, next door. These occurrences happen when the Prime Minister controls the Police Commissioner and has his own band of assassins or criminals to do his bidding to deal with whatever opposition happens. This happened in Argentina with Pinochet. It has happened across the board and we have to guard ourselves against any sort of political interference, and that is what is happening here.

**Hon. Al-Rawi:** Chile. Pinochet was Chile.

**Sen. D. Solomon:** Pinochet, Chile. My mistake. Apologies, Madam President.

**3.30 p.m.**

We looked at the Legal Notices themselves and we noticed that a number of key qualifications are suddenly omitted and one has to ask the question why. What is the intent? Why are you leaving out certain key criteria? Is it because there is somebody that you think will not fulfil these criteria? Because to me, these criteria have been thought about, they have been discussed with consultation with the hon. Patrick Manning and with the hon. Basdeo Panday and they came to an agreement. Something that is monumental and historic so we have look at these things seriously. And to come just through Cabinet, straight to the President and no Parliament, no consultation, and say we are going to omit these things, with that, I have grave concern.

So let us look at it closely.

“(3) A candidate for the office of Commissioner of Police or Deputy Commissioner of Police shall meet the following core criteria...”

This is 3. These are matters that have been omitted. You no longer need:

“(a) leadership skills which enable him to motivate, inspire...engender trust and confidence in the members of the Police Service;”

That is no longer a requirement. Why would that be? Why would you not want a Police Commissioner with leadership skills? Why would you not want a Police Commissioner who is able to motivate, to inspire, to engender trust and confidence in the members of the police service? That is critical.

This Police Commissioner needs to have the ability to lift the entire morale of the police service. He needs to have them following with him in high moral standards. They cannot be influenced by corruption or bribery and the temptation is there. You see, the further down the recession puts us in a crime situation, we need to protect the police service. We need to ensure that they have a bulwark against any kind of political interference. So we abandoned leadership skills. Analysis paralysis.

“(b) management skills”—not necessary—“which include the ability to—

- (i) plan and organize operations;
- (ii) monitor and implement such plans; and
- (iii) identify and rectify problems;”

Gone. That has been omitted.

“(c) communications skills...”

Not important. The Government does not think it is necessary. They have omitted that as well.

“...both written and oral, which enable him to deal effectively with the media and community groups;”

Why would you want a Police Commissioner not to have communication skills? That would be essential. How can he operate if he cannot communicate properly, not only with the police, with the citizenry, with the media? He needs to get the message out that we are fighting crime. He needs to inspire, he needs the leadership skills otherwise it is an abject failure. I wonder what person we have in mind.

“(d) commitment to the cause of the organization;”

Gone.

“(e) 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; and”

Gone. This one really blows my mind. They have omitted that he should have:

“(f) integrity, having the courage of his convictions and known among his peers for doing the right thing regardless of consequences to self and others.”

Why would you want to omit that? Breach of the Constitution? This is larger than that. This is an insult to the people of Trinidad and Tobago. “What you want? Ah second rate Commissioner of Police.” [*Desk thumping*]

The hon. Attorney General says “runaway crime; we need to deal with this immediately; this has to be done effectively”, but you know, “we doh need ah man

who has any sort of integrity. We doh need ah man who has any leadership skills. Nah, nah. We doh need ah man who has any kind of communications skills or inspiration.” What we need, Madam President, is not to advertise this publicly because that is another amendment they have made. We want to be able to pick and choose who we are going to invite to apply for this highest post in the country. So we are not allowed to know who is being invited. And worse than that, what about all the people who want to apply and they do not know that it is happening and they are not invited? Analysis paralysis? Tell me. How can we move forward when we are moving backward?

In this report which the hon. Attorney General says is the consultative document. The document they consulted with, not the people. A document, June 12, 2012. Where are we now? January 2016, consulted with this document. How is it that through the massive consultation that the Government did in Cabinet amongst themselves that we end up with these omissions here? How is it that we end up with this secret advertising that is happening? The commission is no longer, through these proposed Orders, allowed to consult with the firm about the candidates in the process. That has also been omitted, so they are now silenced. They cannot consult or discuss the matters with which the firm has come up with. What sort of selection process is that? What sort of transparency is that? What sort of good governance is that? Where is the protection for the people of Trinidad and Tobago? And you want to ascribe it down to efficiency and expediency while sacrificing transparency and the best possible candidate and integrity in the process? Not at all; unacceptable.

Madam President, January 21, 2016, an article came out. I was hoping that, perhaps, the Government might take heed of the editorial and actually consider



withdrawing these Orders and taking a tact, back to consultation, which we have heard them speak about so much. It would have filled my heart with joy to know that, right, we are working together to solve the problems in this country. We, on this side, represent 340,000 people. That is no little amount of people. This Police Commissioner needs to govern all of them. [*Desk thumping*]

This country is a very complex country. The Police Commissioner has to be able to handle very different situations. There is urban versus rural; there is racial, there is political. There are so many sectarian, different sensitivities that he has to have. He has to deal with the training, he has to deal with discipline; he has to deal with corruption within the police force. When he does not have a handle on that, we are in real trouble.

If I may mention something that happened very recently. When you think that this country is safe and you feel as though you have the protection of the police and you do not guard jealously the Constitution and the separation of powers and the pillars of democracy, you can end up in a police state so quickly. Look what happened the other day with the total policing. Madam President, the country was brought to its knees. You cannot allow any sort of corruption or self-interest within the police force to fester. In fact, the Police Service Act specifically states that police constables should not ascribe to any sort of political communication, any sort of national security communication. They are demanded to be apolitical. But now, the Minister of National Security is telling the commission when they must hire this privatization firm, in secret, without any sort of public advertisements. Private invitations going out to private individuals.

Now, I heard my learned friend and my comrade, the Attorney General say,

well, we have the protection of the Central Tenders Board, and “we go ah big” song and dance about the Central Tenders Board. Is that not a government-appointed agency? NIPDEC, as I understand it, or any other state agency that can get involved in that process is also a political-appointed process. So you have Prime Minister, Cabinet, Minister of National Security, NIPDEC. Where is the independence? The Police Service Commission, what we are doing is derogating their constitutional rights, their constitutional protection. These are serious matters and I urge—I really do urge the Government to rethink their position.

There are 6,500 police officers with numerous powers. Powers of arrest, powers of seizure, powers to arrest with warrant, powers to arrest without warrant, and all of these powers are contained within legal frameworks and constitutional protections. They are prone to abuse. Imagine that we have a fully-equipped, fully-armed police force under a Commissioner of Police who has no integrity, who has no communication skills and is linked through the Executive, and this privatization of the firm and was selected privately through private solicitation, not public. That is a recipe for disaster and danger and it is a slippery slope and we could get there sooner than we could imagine. Madam President, how much time do I have?

**Madam President:** You have until 3.56 p.m. [*Interruption*]

**Sen. D. Solomon:** The other side would have me sit down, I am afraid not. The Police Service Act deals a lot with how the police are to act. It says the 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.”

Efficient, not happening on this side; transparent, not happening on this side—thought I dealt with that—management, no need for management skills. The service to provide the principles of equity—that is fairness—and meritocracy shall be applied at all times. All people, all officers need to be treated equally and fairly, without fear or favour of political persuasion or otherwise.

It goes on further in Part VIII to talk about the General Functions and Obligations of Members of the Police Service. Under section 40:

“A police officer is disqualified from membership of the Senate, the House of Representatives, the Tobago House of Assembly, or a Municipal Corporation.”

The reason for that is that in the spirit of the law, they should be not politically aligned. Section 41(1):

“Subject to this section, a police officer shall not—

- (a) in any public place or in any document or any other medium of communication, whether within Trinidad and Tobago or not, publish any information or express any opinion on matters of national security...national or international political controversy;”

A police officer is barred from engaging in any political activities. He cannot show political bias. This is the law, and I want to stress that. I want to stress that a police officer is barred from engaging in any political activities. That is how important it is that we maintain equity. Anybody must trust in his police officer. He must know that regardless of who I am or what my political persuasion is, what my race is, where I live, what religion I am, the police and Commissioner of Police are going to treat me fairly. Do not mess with that. Let us work through this

together. It needs to be done, let us do it together.

In conclusion, Madam President, I am going to take a little stab at my old Latin from my Latin teacher, said *facilis descensus averno*. It is a quote from the Latin poet Virgil and it is translated into the local proverb as when you slip, you slide, to which you might also add in local “parlance”—forgive me, Madam President—but you could fall on your backside. But, Madam President, that is all I have to say on the matter. Thank you. [*Desk thumping*]

**Madam President:** Let us try and not use those colloquial expressions, please. Okay? Who shall be speaking next? Hon. Minister of National Security.

**3.45 p.m.**

**The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):** [*Desk thumping*] Thank you very much, Madam President. I stand before you today to speak on a Motion that I sincerely believe is very important to the peace-loving citizens of Trinidad and Tobago. I stand here to give my unstinting support to my Government’s courageous initiative to treat with an outstanding matter, and a very untenable situation, that was left, to a large extent, in abeyance for a very long period. I speak here about the Motion to select the Commissioner of Police and the Deputy Commissioner of Police. I have listened attentively to the submissions of Sen. Mark, Sen. Roach and Sen. Solomon, and I thank them for their contributions.

When I looked at Order 218 of 2015, it speaks to the selection process. It appears to me that one matter that continues on all submissions, has to do with the role of the Minister of National Security. I want to bring some clarity to that. It says in the proposed amendment:

“The Commission on request of the Minister of National Security shall, in

accordance of section (20A)(1)(c) of the Central Tenders Board Act, contract an appropriate local firm (hereinafter referred to as “the Firm”) to conduct a recruitment process including inviting applications for the positions;”

Madam President, it is a very simple action on behalf of the Minister of National Security, the action is to request of the commission. The Minister of National Security can only request of the commission in one factor—because there is a vacancy of the position—for the Commissioner of Police or Deputy Commissioner.

Secondly, what is even more important, the Minister of National Security, who has an understanding of the security environment, would treat that with a matter of urgency. So those two factors allow the Minister of National Security to trigger the process, and that is all he is doing, [*Desk thumping*] triggering the process, based on the crime situation and based on a vacancy. That is the trigger, and that is all I bring to clarity for that.

There also seems to me, based on Sen. Mark’s statement, that there is some sinister plot. There is some sinister plot behind this measure. I can assure Sen. Mark and the wider Trinidad and Tobago public that there is no sinister plot from this Government. This Government does not indulge in those kinds of activities, Madam President. [*Desk thumping*] If there is any sinister plot, it might be a continuation of the Ramlogan policy, to have somebody acting for as long as they want, so that they can control them. [*Desk thumping*]

Madam President, I bring to this debate, not a perspective based on law, because as I sit as Minister of National Security, who has direct charge with

Trinidad and Tobago Police Service. I bring to this debate the issue of leadership and governance, because I believe crucial to this debate is the issue of leadership and governance.

As you will know doubt be aware, the Commissioner of Police is the highest rank in the Trinidad and Tobago Police Service. He is at the head of the pinnacle. He is the ultimate leader. He is the jefe among constables. In fact, in the United Kingdom he is referred to as the Chief Constable. Together with his deputies, they form the nucleus of this most trusted organization. The Trinidad and Tobago Police Service is both a civil and paramilitary agency, charged with the maintenance of law and order; charged with the prevention and detection of crime; charged with the prosecution of offenders. This is the body that is guaranteed, this is the body that is charged to ensure the security of Trinidad and Tobago, especially the internal security.

Madam President, the Police Service Commission in July 2012, appointed Mr. Stephen Williams, then Deputy Commissioner as the Acting Commissioner of Police, to take effect from August 07, 2012. In this regard, I want to quote, if you will permit me. I quote from the Commission's statement at the same time it made that appointment, and it reads.

In this regard the Commission has today instructed the Director of Personnel Administration to invoke the provision of legal notice No. 102, to ensure that the offices of Commissioner and Deputy Commissioner of Police are filled permanently in the earliest possible time.

I repeat, in the earliest possible time. It is now three years and five months since that edict was made; three years and five months. It appears to me that the

definition of “the earliest possible time”, has lost significance and importance on the past administration because, to date, we are here, this Government is here, to make that right, Madam President.

The present Acting Commissioner is now at his seventh, six-month contract, his seventh, six-month contract in 2016. Between 2012 to now, seven, six-month contracts. This situation is untenable. It is unbearable and shows a lack of commitment, a lack of concern, a lack of care, a lack of understanding of the importance of leadership in that most important organisation by the past administration.

Geisha Kowlessar writing in the Trinidad *Guardian* dated June 30, 2015 stated, and allow me to quote:

It is reported that there are concerns among the First Division Officers regarding the length of time it was taking to recruit and appoint the substantive police commissioner. One senior officer said, it was demoralizing and insulting to the organization.

The *Newsday* of yesterday's date, in an article written by Andre Badoo, page 18:

The President of the Social and Welfare Association said the need for a Commissioner of Police to be appointed has overriding importance if we want to be serious of improving national security and public safety. The police is suffering so much. We must all adopt the mature approach.

Madam President, these two quotations indicate the state of affairs, as a result of our procrastination, to appoint a Commissioner of Police and Deputy Commissioner of Police in the organization. It has left a state of demoralization within the rank and file of the police service. We have seen the Social and Welfare

Association agitate and say to us, and I can quote, again, from the *Newsday* dated January 20, page 18:

The President of the Police Social Welfare Association, Insp. Anand Ramesar called on the Government and Opposition to work together, and he said he had no problem with the proposed requirement that the recruiting firm to be hired by the PSCs to oversee the recruitment be limited to local firms.

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

Mr. Vice-President, let us remind ourselves that the Trinidad and Tobago Police Service is a paramilitary organization, and like all paramilitary organizations or like organizations of that instance, at the core of the very foundation is the twin philosophy of leadership and discipline; twin philosophy of leadership and discipline. In the military, institutions such as the Trinidad and Tobago Police Service, the Trinidad and Tobago Fire Service, the Trinidad and Tobago Prison Service, some members bear arms, and they bear arms on behalf of the State. They are expected to make the ultimate sacrifice and some of them have done that. We have lost lives in most of the institutions over the years.

What is important, Mr. Vice-President, is that the leader in this institution must be able to provide the kind of environment, must be able to provide the kind of morale that is required, to ensure that their charges perform their jobs effectively and efficiently.

We have heard the voices of the senior officers, and they have said to us that this absence of action being taken to appoint a police commissioner has left a demoralizing effect on the institution. In the military, theorists such a Sun Tzu,



Confucius, practitioners like Gen. Patton and Gen. Montgomery have said morale is the fuel that allows people to go beyond the call of duty.

So the actions of leadership, the lack of appointing a police commissioner and deputy commissioner of police have left a demoralizing effect on our Trinidad and Tobago Police Service today. And that is based on the inaction, to a large extent, of the last administration. If we understand the importance of the Trinidad and Tobago Police Service, if we understand the importance of leadership in an institution that bears arms, if we understand the importance of leadership in an institution that is charged with the security of Trinidad and Tobago, then we cannot any longer procrastinate and continue business as usual. We must appoint a police commissioner who has the legitimate authority to carry out his job, Mr. Vice-President. [*Desk thumping*]

So, it is important I believe, it is fundamental to the very existence of these institutions, which are very hierarchical in nature, that strong and sustainable leadership be executed and be appointed. The leadership of the TTPS, just like in the military organization, must be provided with the instruments of legitimate authority to be able to conduct their jobs effectively and efficiently.

The leader must be very important to this institution. This is an issue of leadership and governance because if, and for any reason, the leader himself is not secured, his position is untenable, then what happens in an organization of this nature? It means that there is lack of trust. There is a lack of confidence in strategies that may be put forward by that leader.

We have seen the present Commissioner of Police now into his seventh, six-month contract. So, Mr. Vice-President, the six-month contract is something that

comes over his head almost every six months. You are wondering, his charges and his deputies are wondering, is he going to stay? Are they going to keep him? If he puts out strategies, they cannot be long lasting, because there is always the question of his followers, because leadership is based on following, of influencing your followers, and the people who follow you, is based on their understanding that you are leading them in a direction of permanence and sustainability, and this cannot happen. It cannot happen in an organization such as this if the leader's position is untenable. [*Desk thumping*]

We have seen what happens in the case of demoralization taking place in other institutions. I draw reference to the Trinidad and Tobago Defence Force, and I bring it into the picture. I recall some time ago that the former administration chose to extend beyond the compulsory retirement of a former Chief of Defence Staff for one year beyond his compulsory retirement. You know what it did to the defence force? It demoralized the entire officer corps of the defence force. When you do that to organizations such as these that are charged with the security of Trinidad and Tobago, you are sending a wrong message, Mr. Vice-President, and I have seen it happen. So we must understand that leadership and governance are fundamental to the execution of the duties of the Trinidad and Tobago Police Service.

Mr. Vice-President, it is generally accepted that our police service suffers from security of tenure at the leadership level. The police service has been in a state of instability for the last five years and, despite having a special majority in Parliament, the last administration absolutely took no effort whatsoever to improve this lot.

Yet they come here to negative the attempt by the responsible Government of the day to make this right.

**4.00 p.m.**

Mr. Vice-President, the Police Commissioner must keep this organization strong. He must be dedicated to this task, communicate with the public. He works under a very stressful and demanding situation, but he must execute the kind of strong leadership that is required in organizations such as this. He sets the tone for his officers. He sets the tone for his deputies. He sets the tone for his organization, but if he himself is in an untenable situation then the tone that he sets does not resonate with the entire organization. Without security of tenure at the top, how can there be meaningful governance and improvement? We are saying today let us put this right; let us fix this. Let us ensure that the Police Commissioner and Deputy Police Commissioner have security of tenure, and this is the reason we are here today.

That is why this Government, in its manifesto, said that one of the first things to bring to this House was to treat with the Commissioner of Police and the Deputy Commissioner of Police because we understand the security situation that exists today. We understand the importance of having that level of governance and leadership in this organization. This is why we are here today. It is in this context that the role of the Ministry of National Security must inevitably involve policy direction and strategic direction to the Trinidad and Tobago Police Service because we have the responsibility to do that, to discharge that. But in order to do that, we must also at the same time have a leader that can roll out those strategies, that understands the policy, but he must also have security to do so.

It is an understanding that even at the strategic and policy level, in order to execute those measures, you must have an individual at the top of the organization who knows that he can do that, free of anything hanging over his head, that he would not be removed at any moment. It is the only way that we can treat the issues of crime and security in Trinidad and Tobago in a purposeful and meaningful way. This is no disrespect to Mr. Williams, he has been doing a good job, but at the same time he always wonders at the end of the six-month contract what is happening. So we must change that; we have to if we are to move forward in this country. [*Desk thumping*]

We know quite sure that incidents of crime and violence and so on within the security environment are there for all of us in Trinidad and Tobago to see. We witness it, we see it and we are treating with them as best as we can. But in order to put everything together, in order to ensure that we can execute the actions, the operations effectively and efficiently it is important, it is fundamental, it is necessary for us to treat with the issue of the Police Commissioner as a matter of urgency. [*Desk thumping*]

We have seen efforts have already taken place in some directions, and I can tell you there is a new phase of reform taking place at this point in time. It is based on the development of good governance in accordance with government policy. What we seek to build is a modern driven and proactive police service with a leader that has commensurate authority that is practical and motivated and meet the service's annual benchmarks and surpass all expectations. We are hoping to build a very strong organization, one which can really and truly serve the purpose which the Trinidad and Tobago Police Service was designed for. So we are talking here about leadership and governance. This is what the issue is all about at the end of

the day. It is leadership and governance; strong leadership, strong governance.

Of course we put the legal framework in place, but at the end of the day we are going out there to get a leader who understands his remit, who is there, purposefully taken to ensure that we have strong leadership to execute what is expected of him. So we look at, if you would permit me, Mr. Vice-President, some of the features we are looking for in the police service: A police service that is accountable to the public; a police service that operates within the framework of the law and international policing standards; a police service committed to the promotion of a high standard of moral and ethical conduct; a police service whose policing priorities and strategies are based on the needs and demands of local communities; a police service with a comprehensive structure and disciplined approach to the management of financial, technical and operational resources; a police service open to collaboration and partnership with individuals and communities, public and private organizations and professional associations among others.

But in advancing this type of expectation, in advancing those types of programmes, it can only be done, it can only be executed—and I will repeat it—because the issue here is leadership with security of tenure. This is the only way they can execute the policies and strategies of this Government, and these are some of the expectations.

It is not today or yesterday or even just prior to September last year that we have been calling for changes. It is long before that. The records would show that as far back as July 02, 2010, the Member of Parliament for Diego Martin West, then Opposition Leader and now Prime Minister of Trinidad and Tobago, spoke

out vehemently against the shortcomings of the constitutional Orders that are now the subject of this debate.

Mr. Vice-President, we recognized that the process used to select a Commissioner of Police and his deputies are indeed cumbersome, and that has been confirmed by the former head of the Police Service Commission who said it was convoluted, we recognized that, and protracted; in fact it incurred great expenditure. The Attorney General mentioned something like \$8 million. Not only expenditure in terms of the recruiting process, but even in terms of the selection process.

The last recruiting process brought us to two foreigners: Mr. Dwayne Gibbs and Mr. Ewatski. When one looks at the remuneration that was paid to these people—let me just give you an idea, and this was, in fact, from the Service Commission Department. Permit me to read. The monthly salary to Mr. Gibbs was \$108,990. The allowances alone, induced allowance, \$72,590 a month; that is just the allowances; a travel grant of \$5,000 a month. A total package of \$108,992. So when we talk about a local firm and a national of Trinidad and Tobago we are, in fact, carrying out the policy of the Government in investing in local, local, local potential. [*Desk thumping*] Even in terms of our economic downturn, we will see what we are looking at. So both in terms of content, both in terms from an economic standpoint.

There is no reason for us to doubt the potential of the nationals of Trinidad and Tobago; no reason whatsoever. Mr. Vice-President, I have been exposed to training abroad in Canada, in the United States as a national of Trinidad and Tobago, and I can tell you in my experience I have topped some of the classes with

people from the same countries, from Canada, from the United States. I can tell you across the board, we have some very intelligent people in Trinidad and Tobago, we have some very capable people in Trinidad and Tobago.

I remember going to Canada, and I digress for a bit, and I was able to tell the Canadian officers in the military school, more of the prairie and oil in Edmonton than they knew, because I did that in geography in Trinidad and Tobago. So that when we talk about local content, when we talk about local and nationals, it is because we in this Government understand the potential of our citizens. We understand the capability of our citizens, and we feel quite certain that we can find the calibre of individual who is a national of Trinidad and Tobago, whether residing here or abroad. This is the remit of this Government.

Some of the effects we realize in going forward is the importance of creating the environment to raise and lift the morale of the Trinidad and Tobago Police Service. In addition, as we lift the Trinidad and Tobago Police Service, we are also lifting the morale of the entire institution of the Ministry of National Security, because they work in joint operations. So we firmly believe that what we have before us today must be one in which we have the agreement of all.

I have heard the comments from the Senators, but I think and I strongly believe that we cannot continue—for the last three years and five months—we cannot continue this acting arrangement. We have to put a stop to it and we have to put a stop to it now. We have to. If we truly believe that we can treat with the crime, if we truly believe that we can treat with the security of Trinidad and Tobago, we must give the Commissioner of Police the remit. We must give him the legitimate authority to carry out his job effectively and efficiently.

The acting arrangement has shown quite clearly that there are some pitfalls, and we have recognized that. You see, in an acting arrangement, Mr. Vice-President, there is always a perception that holders of acting appointments are not given the respect afforded to those who hold substantive position. There is always the perception that holders of acting arrangements cannot make important and far-reaching decisions. There is always a limitation, because your far-reaching decisions sometimes would not be carried out in extremity. There is always a perception with acting appointments, the impression that management does not care about the individual or the organization. There is always a perception that our regional and international partners will not share the kind of information, will not expose us to the kind of training that is required, because they feel that or they sense that the person who they have exposed to that training would not benefit because of the untenable situation of their own position.

So we must get past that. We must be able to get past those acting arrangements. We cannot in today's world continue doing business like that. We have done it for far too long and we have seen the effect on the organization. We have seen the demoralizing effect on our organizations. We have seen the low morale executed as mentioned by the senior officer in our organization as a result, to a large extent, of inactivity, of our inaction in ensuring that we fix this problem.

I am not here to talk specifically about any individual. I will compliment the acting Commissioner of Police for the job that he is doing. Notwithstanding what is hanging over his head, he is doing his job. He is doing it, given all that. So I will compliment him, but he would do an even better job if he has security of tenure. He would do an even better job if he knows quite well that every six months he does not have to wonder whether he is being recruited. [*Desk thumping*] We are



here today to fix that problem. We are here to fix that. We are here to ensure that the best candidate is selected. And as Mr. Williams has mentioned he too will be applying. He has mentioned so publicly. He is free to apply, and he too will be applying for the position and so too many others who are so qualified.

But what is happening is that we have widened the pool. So that at the end of the day, the selection process will bring to us the best candidate among all applicants, and this is the transparency that this measure would do.

Permit me for a while to talk about this appointment. It is abundantly clear to all of us that we are at the point where we have to and we must take good action. We must take positive action. We must. We are treating with crime and security. We have said that crime is our number one area that we are going to be targeting; we have said so. In order to do so, we must bring all the activities, we must bring all the institutions, because we said we are using the whole of Government approach, which means we are bringing all the agencies of Government to treat with that number one target.

At the end of the day while we deal with policies, while we deal with strategies, the institution charged with executing those policies and strategies, the number one institution is the Trinidad and Tobago Police Service, supported of course by the Trinidad and Tobago Defence Force, supported by the prisons, support by the fire service, and supported by others. But the number one institution charged to deal with that is the Trinidad and Tobago Police Service. And if that is the number one institution, then we must ensure that that number one institution is equipped in terms of leadership, is equipped in terms of governance, is equipped in terms of equipment and apparatus and so on. But in order to lead the

charge, the Police Commissioner must have that sense of security, must have that sense of legitimate authority to execute his job effectively and efficiently.

**4.15 p.m.**

Mr. Vice-President, when we look at the selection process itself, and I go down in terms of the criteria, I heard that most of the Senators mentioned in terms of, we have left out this and we have left out that. If you look at the Order itself it talks about—3(a) says:

“...‘the Firm’)” to conduct a recruitment process...”

Inherent in that recruitment process is of course an interview, and this is where elements of communication skills, elements of managerial skills, elements of leadership skills will certainly come out. It does not have to be there, any firm that is charged to recruit in terms of the process would bring out certain information of the individual that they are recruiting. So I heard a number of arguments that they would not see leadership, they do not see management skills, and they do not see communication skills—*[Interruption]*

**Sen. Mark:** But why remove it?

**Hon. Maj. Gen. E. Dillon:** It is inherent. It is basic, it is inherent. It is inherent in the process. *[Interruption]*

**Hon. Al-Rawi:** We left it for the PSA to negotiate.

**Hon. Maj. Gen. E. Dillon:** Of course, it is inherent in the process. *[Interruption]*  
Of course, it is inherent in the process. So the argument, you know—*[Interruption]*

**Sen. Mark:** You all have a plan.

**Hon. Maj. Gen. E. Dillon:** There is no sinister plot from this Government. You

CoP and Deputy CoP (Selection Process)  
Order, 2015 (cont'd)  
Hon. Maj. Gen. E. Dillon (cont'd)

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see, Shakespeare has a way he says—[*Interruption*]

**Hon. Al-Rawi:** If there is a plot it means the PSA has a plot.

**Hon. Maj. Gen. E. Dillon:**—that is right—“the eye sees not itself but by reflection”, so maybe you are looking in the mirror sometimes. [*Desk thumping*]

There is no plot whatsoever by this Government. This Government does not engage in plot. [*Interruption*]

**Sen. Gopee-Scoon:** Say that again, “nah”.

**Hon. Maj. Gen. E. Dillon:** You want to hear it again?

**Sen. Gopee-Scoon:** Yeah.

**Hon. Maj. Gen. E. Dillon:** “The eye sees not itself but by reflection”, so maybe you are looking in the mirror, and therefore what he is seeing in the sinister plot is based on his own reflection in the mirror. [*Desk thumping*] [*Crosstalk*] Mr. Vice-President, let me say that as we go forward in the recruitment and selection of a Commissioner of Police that we are into a world of interdependency. We are here where no one entity can choose with the many challenges that confront us.

We are here where no entity can treat with the issues and challenges confronting us, we are in a world of interdependency, and this Government recognizes that. We want to send a message that we expect a responsible Opposition. I want to plead with the Senators, and I thank you for your support; I thank you for your contributions, Independent Senators, and I ask you to understand that we live in a world of interdependence, one in which no one entity can treat with the many challenges that confront us. Therefore, going forward is based on cooperation and collaboration. It is the only two mechanisms that will allow us to treat with those issues, cooperation and collaboration.

I say to you, when we are treating with crime and security in any jurisdiction it is not my business, it is not your business, it is all of our business. It is all of us because crime and criminality cannot be treated with any one entity. So my urging is that let us look at it in a holistic manner. Let us understand that we all have a part to play. Let us understand that we all have a role to play, and so let us contribute significantly to treating with the crime and criminality in Trinidad and Tobago. Let us use a whole-of-country approach to dealing with these matters, and if we understand that remit, and then we understand the importance of this debate in terms of the appointment of a Commissioner of Police, Deputy Commissioner of Police, I extend my hand to you and say, let us do it together. Let us do it together. [*Desk thumping*] And, more importantly, let us not procrastinate again, but let us do it now. Let us do it now. [*Interruption*]

**Sen. Mark:** We will do it together.

**Hon. Maj. Gen. E. Dillon:** We will do it together, but let us do it now. [*Interruption*]

**Sen. Mark:** No—

**Hon. Maj. Gen. E. Dillon:** It is far too long, it has been far too long in waiting.

We cannot continue going this way. We can no longer have an acting Commissioner of Police. We can no longer have an acting—because, you see, you know, we have to understand, if we have an acting Commissioner of Police, you know what would happen? His substantive rank is Deputy Commissioner of Police. So what happens, what it filters down is that the deputies below him, they cannot be deputies, everybody is acting.

Sen. Roach mentioned he almost thought that there was a Hollywood acting

CoP and Deputy CoP (Selection Process)  
 Order, 2015 (cont'd)  
 Hon. Maj. Gen. E. Dillon (cont'd)

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taking place. How can we in today's world, in the 21<sup>st</sup> Century, in 2016, sit down and have the Trinidad and Tobago Police Service with an acting Commissioner of Police, acting Deputy Commissioner of Police, acting Assistant Commissioner of Police, and expect the organization to perform 100 per cent. There must be security, unless you are talking about leadership and governance. [*Interruption*]

**Hon. Al-Rawi:** And what did you do? You managed an army.

**Hon. Maj. Gen. E. Dillon:** Of course. Leadership and governance, Mr. Vice-President.

**Mr. Vice-President:** Minister, you have five more minutes speaking time.

**Hon. Maj. Gen. E. Dillon:** Thank you very much, Mr. Vice-President.

Leadership and governance, in any structure, and you see what we do not understand, again, as I mentioned, the issue here today, while you understand the legal input and the legal ramifications, the issue here today is the implications of not having a legitimate Commissioner of Police. The implications for crime and criminality in Trinidad and Tobago; those are the implications. That is the crux of the debate, leadership and governance. And I said before, I urge you all, as we go forward, the world is one of interdependency—[*Interruption*]

**Hon. Senator:** Yeah, we agree.

**Hon. Maj. Gen. E. Dillon:**—let us support this Motion—fine, that is right—but I ask you to support this Government in putting this thing right and fixing it once and for all [*Desk thumping*] to ensure that we have a Commissioner of Police and a Deputy Commissioner of Police that legitimately has the legal authority—[*Interruption*]

**Sen. Mark:** “First time I see yuh fire.” [*Laughter*]

**Hon. Maj. Gen. E. Dillon:**—I am learning from you—who has the legal authority, Mr. Vice-President, to ensure that this country, Trinidad and Tobago, will once again, once again under this Government would be a peaceful place free of crime. Thank you very much, Mr. Vice-President. [*Desk thumping*]

**Mr. Vice-President:** Thank you very much hon. Minister of National Security. Hon. Members, I think now is a good time that we take the tea break, so this House will now stand suspended until 5.00p.m.

**4.23 p.m.:** *Sitting suspended.*

**5.00p.m.:** *Sitting resumed.*

[MADAM PRESIDENT *in the Chair*]

**Madam President:** Sen. Chote. [*Desk thumping*]

**Sen. Sophia Chote SC:** Grateful, Madam President. On July 02, 2010, the hon. Prime Minister, Dr. Keith Rowley, had this to say, speaking in Parliament, and I am reading from the *Hansard* record for that day, he said:

“I want to make one more point. The Government will do well not to sell the appointment of a commissioner of police in the context of how many murders take place in this country. I do not know that any of those murderers would have called the police headquarters and enquired who the Commissioner of Police is before they killed someone. I do not know if many would think that because the UNC is in government now and that the PNM has gone, they would stop killing. They have their own agenda.”

I respectfully wish to commend these wise words to this honourable Chamber, Madam President, through you, because I think in this discussion we have mixed up several issues.

We try to speak with clear heads but sometimes what comes out is the language of distortion. Talking in this House and making parallels, or seeking to draw parallels between our democratic country and the Tonton Macoute in Haiti, and Sir Eric Gairy's government, and so on. With all due respect to the speaker who made those references, I wish to say we disrespect those people in those countries who suffered tremendously under those regimes. It is an unhappy parallel to draw because it allows the citizens of this country, or it encourages the citizens of this country to live in an environment of fear.

I did not want to say that speaking in this way is nothing more than fearmongering, because then that would suggest that the words were said with a certain degree of mal intent, and I do not think that they were. The second thing that struck me about another of the speakers, and that is the hon. Minister of National Security, is that a great deal of time was spent on how much leadership is required in the police service, and yet, when you look at what is now being proposed, the leadership skills, which had been referred to at clause 3 of the 2009 Notice, leadership skills, management skills, and so on, all of those things have been removed.

**5.05 p.m.**

Now, it is quite possible that there is a good reason for the removal of those items, but unfortunately none has been given. I think perhaps if we go back to where we started, that is to say with Sen. Roach's contribution and his concern about the lack of consultation we may find a reason for this. I respectfully suggest had there been consultation with the stakeholders, someone may very well have said, listen if you are asking a firm to consider candidates for the job there are

certain guidelines or criteria that you must take into account. Why does your new legal notice not have these criteria?

I am extremely disappointed at the lack of consultation which has occurred here. We had been told that consultation has taken place, but not with whom. Are they significant stakeholders? Are they stakeholders at all? We do not know. What I do know, as a parliamentarian and as an Independent Senator, is this: I see that this notice was gazetted on December 16, 2015. I made sure to double-check with the Secretariat this morning and it confirmed my own records, that is to say, that this gazetted notice was only sent to me as a Senator and as a member of the Statutory Instruments Committee on January 07, 2016.

There is absolutely no reason, in my respectful view, for this delay in informing Senators of what surely is an important piece of delegated legislation. So if Senators have not been consulted, I would have to ask the question through you, Madam President, who has been consulted? And I think in asking that question I simply echo what my colleague Sen. Roach has already asked.

Now since we have had so much talk about we must have the confidence to have a local take the job and that kind of thing, I will continue my contribution by referring to a local authority on commissions because he has spent so many decades of his life in public service. And I will read a little bit from the Public Service and Service Commissions in the Commonwealth Caribbean by Kenneth Lalla SC. And I am reading from page 75.

He says:

Politicians would appear to be profoundly oblivious of the role and function of the police in a democracy. The function of the police is confined



to crime detection, law enforcement and keeping the peace. In the exercise of its function, the police is independent of the Executive and indeed the servant of no one but the law.

The question who manages the police service appears to have been a perennial issue not only for politicians, but generally. However, it is abundantly clear that the police service falls under the purview of the Ministry of National Security and according to the Constitution, the Minister of that Ministry not only has the general direction and control of it, but the Ministry is also supervised by a permanent secretary.

It is plain therefore that while the Commissioner of Police enjoys the independence from the political directorate in his role of law enforcement and keeping the peace, the Minister has a general direction and control of the overall efficiency of the police service.

It is the Minister and not the Police Service Commission who has a general duty conferred on him by the Constitution to monitor the overall performance of the police service and to promote its effectiveness and efficiency to refer all disciplinary proceedings against the commissioner to the commission where necessary and to recommend where necessary his premature retirement—and so and so forth.

So let us not send mixed messages to those who are listening or who are trying to follow this debate. Let us be clear that we identify for those persons what the roles are, who performs those roles and who has responsibility for what.

Now, I say we need to address the issue of misinformation because what often comes out in the newspaper as information is actually inaccurate and is

actually misinformation. A classic example when I was doing my research was an article under the hand of Miss Geisha Kowlessar writing in the *Trinidad Guardian* March 13, 2012. This was at the height of the so-called scandal with the former Commissioner of Police Gibbs and so on. And the headline is:

“PSC protecting corrupt police cocoa in sun?”

And it quite clear that whoever was putting about this kind of information was disseminating material which could not help the general public understand who had to do what. And when we do not do that in this respectful Chamber, Madam President, may I respectfully suggest, that all we do is we add to the noise. And I think we have a responsibility not to do so.

I totally support the idea that there should be someone from this country, a citizen of this country as Commissioner of Police. I do find it ironic that we should take that position when historically our police service took in many officers from Barbados because there were simply not enough people on these islands to police the citizens, and many members of our police service today have parents and grandparents from Guyana and Grenada. But that is all well and good. As a country naturally we would like to see our citizens advance and do well.

And after 54 years of independence I think that the time has come for that. I do not think there is any dispute about that. Unfortunately, what we have also seen is that the current police service is not minded to work with a foreigner. That is the bottom line. It got to a situation under Mr. Gibbs—oh I beg your pardon, Dr. Gibbs and Mr. Ewatski where they could not control the men under them, which takes me to another point and another reason for my concern over the removal of these criteria for the job.

One of the earlier speakers, I think it was Mr. Solomon referred to the “total policing day” to illustrate a point that he was making. And as it happens I had a great deal of interest in the “total policing day” and the parliamentary committee which followed which held an enquiry into what had happened. That parliamentary oversight committee had been chaired by then Independent Sen. Dr. Balgobin and it included amongst its Members our hon. Prime Minister. What did we discover about our local police officers ? We found out that the acting commissioner happened to be away at the time. The person acting in his position ordered the officers who were conducting these illegal activities to stand down and they refused.

There were six divisions of the police service involved in this activity which brought our country to a standstill. The officer who was mandated to conduct the enquiry on behalf of the police service, officer Edwards, he was mandated, I believe, by Mr. Williams to conduct an enquiry into what had occurred, complained he could not get all of his senior officers to speak to him. He could not get, for example, he said and it is on the Parliament website, he could not get the head of Special Branch to give him information. What he did know is that the Special Branch had not clued in to the fact that there was this illegal activity which was being planned.

So we have at the top of our police service officers who were called to account or called to answer or called to show how they can perform on that fateful day and during the course of the parliamentary enquiry which followed. And I must say that that is even more reason for us to ensure that there are very high standards to be met for this office. And the standards which existed in the previous notice and which had been taken out, and I think I need to read them so that they

will be on the record.

It says this:

“Clause 3: A candidate for the office of Commissioner of Police or Deputy Commissioner of Police shall meet the following core criteria:

- (a) leadership skills, which enable him to motivate, inspire and engender trust and confidence in the members of the Police Service;
- (b) management skills, which include the ability to—
  - (i) plan and organize operations;
  - (ii) monitor and implement such plans; and
  - (ii) identify and rectify problems;
- (c) communication skills, both written and oral, which enable him to deal effectively with the media and community groups;
- (d) commitment to the cause of the organization;
- (e) the requisite vision, which will enable him to guide the Police Service in the specific direction that would serve the best of the organization and the nation; and
- (f) integrity, having the courage of his convictions and known among his peers for doing the right thing regardless of consequences to self and others.”

**5.20 p.m.**

I can see absolutely no reason for us not wanting to have those criteria in any notice of this kind. I think the unspoken fear in this honourable Chamber, Madam President, is this. The unspoken fear is that whoever is responsible for the

appointment of a police commissioner holding a permanent position is going to be able to use that commissioner for political purposes. Well now it is spoken, and the question is, whether that is something that can be monitored? Avoided? Protected against? And I think the answer would have to be to all of those three things, yes. There are certainly steps which can be put in place to ensure that the police service is not politicized, and one of the things might be adding to the criteria for selection, as they had existed in the previous notice, by saying something to the effect, perhaps, that any officer or any person applying has to declare his interest as it were of affiliation with any government official.

Sometimes you hear the funniest things on talk radio. Not that I can confess to be a fan of it. But as it happened, I was listening to this programme and someone was saying, well, you know, this is what the Prime Minister wants, because he wants somebody from Tobago to become Commissioner of Police. Well, with all due respect to that caller, so what? We have a Chief Justice who is originally from Tobago and we do not say, okay Mr. Chief Justice you cannot hear this case because it deals with people from Tobago or it deals with matters from Tobago. I think that kind of thinking can only persist if we continue to speak in the language of fear and distrust. Let us speak plainly, let us act openly and, certainly, there will be less criticism of whatever work product comes out of such action. With all due respect, Madam President, I do not think that this has occurred in this case.

Now, if I may look—because I am a lawyer I need to look at what words there are and to see if they make sense. When I look at clause 4, which was deleted, for example, I say that this was a good thing, because clause 4 sought to embody what had been held in an old Privy Council case. This is to say, the

Rajkumar case of 2001, where, basically, a prison officer had taken the Commissioner of Prisons to court to say that he had not been fairly assessed for promotion, because he had not had academic qualifications and so on, but he had had years of experience. And the Privy Council had said, yes, you are entitled to consider him for promotion based on the issue of his experience.

But, I really do think that that kind of thinking is out of date for our current environment. Our Commissioner of Police not only has to be well-respected in the field, he must be someone who has done fieldwork, but he must also be someone who is qualified, and I think the requirement for some kind of relevant degree is absolutely necessary. Now, you see, Madam President, had there been consultation we would have not had any discussion of that because everybody would have been agreed that that was a good thing.

I turn the page. Now, I see here in this information brief provided by the Secretariat, and which is onlined on Parliament's website, that the requirement for advertisement of the position is removed. Again, I do not see why that should be so. I think for any public office you have advertisements to fill the position. What harm is there in requiring that there be an advertisement for a position as important as this one? The other thing which was taken out was this: "An applicant shall apply in the form specified by the Firm and shall submit to the Firm his application accompanied by his biography or his resumé, his references and any other relevant information." Well, it seems to me that that could safely be taken out, because you know that if you are applying for a job you have to put in an application, you have to put in a resumé and you have to put in your references. So that is fine. That is neither here nor there.

Now, I am a little concerned about another thing because throughout the language of this new notice we see the use of the word “shall”. I appreciate what the hon. Attorney General has said, and that is to say in some cases “shall” has been interpreted to mean “may”. Well, why do we wait or why do we speak or write in language which would open someone who is dissatisfied with the notice to run to a court to say that “shall” means a mandate. If you mean “may”, say “may”. What is the difficulty with that? It seems over-lawyered, quite frankly.

And I continue, the next part of it:

“The Firm shall select, from the applications received, the most suitable candidates...”

Fine. That is expected.

“The Firm shall ensure that the candidates referred to in paragraph (b) are subjected to the best practice security vetting and recent professional vetting.”

This is also included in the new notice. I just thought, however, that perhaps the hon. Attorney General, through you, Madam President, I am asking that perhaps this could have been worded in a way that was more felicitous, because I am not quite sure that best practice security vetting and recent professional vetting—I am not quite sure what it means; what criteria you are looking at when you refer to these things. This was 3(f) in the previous notice and it is now 3(c), which says that one of the assessments panel had to be someone of an equivalent or higher rank. That no longer exists. I think that makes sense. You can have ordinary citizens doing the job of assessment.

I turn the page, and I am looking at 3(1):

“...the Commission shall conduct its own assessment of not more than the five highest graded candidates on the short list;”

Now, if we are saying that there is no intention to take away from the Police Service Commission any of its powers then certainly the removal of this ability or this responsibility from the commission is doing exactly that.

So, it seems to me, Madam President, that we are saying one thing and yet there is another thing which is to be interpreted from the wording of this notice. And this, I believe, is a very serious matter because there are many independent commissions protected under our Constitution set up since our republican Constitution in 1976. And if it is that we are now saying that, with respect to the Police Service Commission, that they will have to be guided by whatever the head hunters decide, then it means to say that when we slip we slide. It will happen with all of the other commissions one by one.

To me, that would amount to interference with the Constitution, and I think that if this bit of delegated legislation had been the subject of discussion, had been the subject of input from other parties that maybe this was something that the hon. Attorney General may have taken on board. But, as I say, Madam President, we have not yet been told who these stakeholders were who had been consulted.

Now, it says here that:

“...the Commission shall select the highest graded candidate on the Order of Merit List and submit that candidate’s name to the President in accordance with the procedure set out in section 123 of the Constitution.”

Now, remember we are a small society, and I think perhaps it has happened in other situations where persons have applied for high office. I just used as an



example, say, perhaps, someone had applied to become a judge, and on paper that person seems to be an acceptable candidate. But let us say before the appointment was made—I do not know—the commission discovered that the person had a history of domestic violence or something along those lines. Then it would mean that the commission would have the autonomy and the authority to say, thank you, but no thank you. But, in this case, the commission does not have that power, and I think that when you are talking about the Commissioner of Police who is responsible for the upholding and enforcing of the laws of our beloved country, that it must be that the commission to which he accounts must have that power to say, hang on, you can have as many certificates as you wish, but if you are not a person of good character, or if, for some other reason, we feel that you cannot competently perform your job, then we cannot hire you as Commissioner of Police.

[*Desk thumping*]

Now, I wish to add this. I looked at the debates in the other place yesterday and I have listened to the hon. Senators who have spoken today, and some of the things I heard yesterday are some of the things that we heard in this Chamber—

**Madam President:** Sen. Chote, you have five more minutes.

**5.35 p.m.**

**Sen. S. Chote, SC:** Thank you, Madam President. Today, what I would like to say in closing is that it does not help us for one side to pull out huge chunks of the *Hansard* and say, well, in 2006 you said that and in 2009 you said this and so on. When I try going back, Madam President, this whole thing started in or around 1993. Are we going to spend the time in this honourable Chamber exchanging with each other which party said what from 1993 to 2016?

I respectfully, through you, I urge my fellow Senators to see that we do not go down that road. We look at what we have here. We look at it to see whether it is of the quality that we wish to support and if we cannot support it because we do not think it is of sufficient quality, well then, let us say so and see how it can be made better. Because certainly I think everyone has agreed that having an acting Commissioner of Police especially for such a long time cannot be a good thing. Thank you, Madam President. [*Desk thumping*]

**Sen. Khadija Ameen:** [*Desk thumping*] Thank you very much, Madam President, for the opportunity to contribute to this debate. Madam President, had it not been for the vigilance of the Opposition we would not be here debating this matter today. The legal notices were published and they were never laid in Parliament and that is viewed by the public as a disrespect to Parliament.

Madam President, this is one of the points which I wish to make today in my contribution. Another matter which I wish to outline is the Government's lack of consultation on this matter. And the fact that this is just one occasion where you have this type of action, the actions taken by the Government has serious implications on the citizens of this country, on the stakeholders, and there are several other areas where this Government promises consultation and does very little in the line of consultation. And I wish to take the opportunity in my contribution to outline how this is a dangerous path to go down.

Madam President, I also would like to take the opportunity, because I see this move as mentioned by several persons who contributed to the debate before me today, as well as people in the public domain who have indicated that this, as small a matter as it may seem to those on the other side, is one in a series of steps

by this Government to undermine the independent institutions of the Republic of Trinidad and Tobago. And it appears to be becoming a pattern, a habit and I warn that it is dangerous.

Madam President, I wish to begin with the disrespect and the undermining of democracy. I listened to persons contributing earlier and, of course, it was mentioned that we are in a Westminster system. Yes, we have the Cabinet and we have the Government, we also have the Opposition. And my colleagues earlier mentioned that the Opposition in the present Parliament got over 342,000 votes from the citizens of Trinidad and Tobago.

The Opposition is the voice of the people and whether you voted for the Opposition or not, the Opposition presents a different view so that you will have balance. The Opposition will also bring to the table views of those who may not be involved in the Opposition as a political party, but even from civil society. When I hear the Minister of Communications on record as saying that he would not respond to Opposition concerns, that is such disrespect. Disrespect not to the Opposition only, but disrespect to our system of Government. Disrespect to the people who voted in this country and disrespect to the role of the Opposition in the balance of power. [*Desk thumping*]

And, Madam President, today, due to the vigilance of the Opposition we are here on behalf of the people of Trinidad and Tobago. [*Desk thumping*] Parliament is the place where representatives speak. People who represent constituencies, people who represent the ordinary people in Trinidad and Tobago. Parliament is also the place where the media has the opportunity to hear the representatives speak and to add to the conversation. Parliament is also the place where much of

the public gets information. It is discussed in Parliament, it becomes a topic in the public domain, and so there is discussion around it. In a taxi, you take a taxi, you are going up the road, they will talk about what is going on in the Parliament debate.

So it is very important for the Parliament to continue to play a role. And because in the public domain there is so much interest, it is particularly important for the media to report accurately, not only by way of the reporters but also by their commentators. And, Madam President, I saw in the *Express* editorial today, I think it was, Theodore Lewis, in a highly political but sadly uninformed piece. I do not know his political affiliation, but judging from the headline, judging from the tone of his article and the manner in which he wrote, I would have expected him to get his facts right. And I want to quote him where he said:

“The Government had approved the measure on December 14, but brought it to the House only in January.”

This is in the *Trinidad Express*. This is in print, this is in the public and one would expect it to be truth. Because this is the expectation of the average citizens who takes an interest in what goes on in Parliament. But I want to put it on record for the sake of the *Trinidad Express*, for the sake of Mr. Theodore Lewis, and whatever political interest he may represent, that the Government never brought this legal notice to Parliament; that it is the Opposition who remains vigilant, whose job it is to keep watch and to protect the citizens from the dangers and difficulties that could come, who brought this matter to Parliament by way of this Motion, brought by Sen. Wade Mark.

Madam President, it is my understanding that the legal notice should have

been laid in Parliament on the same day that it was published. The Government's action by publishing the legal notice on December 16, and that is Legal Notices 218 and 219, and never bringing it to the Parliament. I want to also put on record that today makes it 36 days since December 16, and the Government failed to bring this legal notice to the Parliament, 23 working days, in a matter where you are talking about the appointment of a Commissioner of Police, a move that has implications on the safety and security of all citizens. A matter as critical as this.

Today, Thursday, January 21, we are here because of a Motion brought by the Opposition to annul this notice that was published and had it not come out, would have been implemented almost in secret. The action of the Government would have become law without this ever seeing the light of Parliament. It would have become law and would have avoided the voice of the Opposition had the Government succeed in bypassing the Parliament as they attempted to.

And the approach of "we are in charge". The approach of taking absolute power, no account to the people, not giving consideration to the wishes of people, the opinions of people, and I am not just talking people in terms of the citizens. I am talking about the stakeholders. This is the making of a dictatorship. That should not be the approach of any Government. The engagement of civil society, of stakeholders, is very critical to bring balance. And had those consultations taken place the Government would have at least avoided the perception that you are in fact trying to do something in a sinister and clandestine manner.

And while we on this side will appeal to the Opposition to reconsider and to withdraw the notices—*[Interruption]*

**Hon. Senator:** The Government.

**Sen. K. Ameen:** The Government, sorry. My apologies. We will be there shortly. You may not even last the full five years, so that is okay. You could practice from now. While, Madam President, the Government may take the opportunity to ignore the voice of the Opposition in this Motion, thankfully, the guardian of our Constitution is the Supreme Court. And the Leader of Opposition has already put it on record that the Opposition will consider legal action, taking this matter to the Supreme Court for a ruling on the view that it infringes on the constitutional rights and the constitutional provisions as regards the Commissioner of Police, which brings me to my next two points.

The undermining of the independent institutions in the Republic of Trinidad and Tobago and the actions, Madam President, that I see as an emerging pattern of interference by this Government. The lack of consultation which seems to be the preferred modus operandi of the Government. Madam President, the dangerous undermining of the independent institution that produces the Police Commissioner and the fact that the Police Commissioner and, in fact, the police service should not be influenced by politics whether it is from the sitting party, the sitting Government or any political party.

**5.50 p.m.**

Madam President, crime is an urgent matter and it should not be that the enforcement of law could be perceived as being politicized. I want to commend, at this point, the Minister of National Security. He is a very respected gentleman, an officer of the law, and when he came into office he is on record as having expressed gratitude and appreciation for the presence of the OPVs, those vessels that secure our border which were purchased by the People's Partnership

Government. And he also mentioned other methods of empowerment to the protective services that were implemented by the People's Partnership Government.

At that time I believe he was really speaking as a man who would have worked as part of our protective services, and who would have been expressing his true opinion—un-politicized opinion—at that time. Unfortunately though, I think as time progresses I see this goodly gentleman apparently having to toe the political party line. He has recently joined in the unfair criticism of the same People's Partnership Government, and I noticed in his contribution he found it difficult to agree with what was being put forward. I noticed in his contribution that while he spoke on the measures that are being proposed in terms of the qualifications and the method of appointment, I notice that he agrees that leadership is required. I notice that he agrees that communication skills are required because he indicated that it is inherent that once you ask for a Commissioner of Police, it is understood that they should have those qualities.

Then I expect that based on your contribution, you are endorsing what Members on the Independent Bench who spoke before me indicated, that there is no harm in leaving those requirements in. Therefore, if I am to listen to your words, hon. Minister, I think you are, in fact, agreeing with the Opposition that this Motion should be annulled and that we should go out and have proper consultation.

And while I am here, you know, when you see people who serve with distinction in different spheres of public life, when you see people who give their life, risk their life, sacrifice their families, to be a part of the protective services—Madam President, I have relatives who are members of the protective services and

every time they go out there, they are not sure that they will come back home to their children or to their families. And when you serve and you attain a senior rank, you develop, most times, a genuine concern for the profession. The ideas that you put forward will be in the interest of the profession, and that is the importance of consultation with the stakeholders.

And I wonder, as a man who climbed the ladder, who moved up in the ranks, who served at a distinguished position as a senior officer in the protective services in Trinidad and Tobago, that had the gentleman who now occupies the position of the hon. Minister of National Security, not being on a political ticket here, would he have agreed to the proposed action? Would he have agreed that political interference is the best thing to trigger the process? Would he have agreed that whoever is in Government, whichever Minister, should be allowed to interfere? Kind, Sir, I do submit that I highly doubt you would have agreed with that action.

But I know that when you serve as a Minister of Government you have the political agenda of your party on the table before you to balance with the interest of protecting the country. And I want to submit to the Minister, through you, Madam President, that the issue of national security and protecting our nation should not be compromised based on the political agenda of the PNM. [*Desk thumping*]

Many members of the protective services, including the police service, see the move to allow interference from the political arm as dangerous and they are asking, what next? Because, Madam President, members of the public and members of the police service, in particular, could recall when a sitting Prime Minister, over a weekend—not in the normal course of duties—called in an acting commissioner to present him with his instruments of appointment. That was an



invasion of the Executive arm of the State, where a Prime Minister could say, “Ah boy, I have yuh. Just remember who give yuh your appointment”; where a sitting Prime Minister or politician could say, “I gave an instruction for you to hold this big post.” In fact, he probably does not even need to say it. It would be implied.

But even if that officer rises above that, in the public domain where the perception is that there was a political intervention, there will always be the perception that that appointee has a political affiliation and, therefore, will not be fair in administering his duties. And that is a major part of what we must protect the office of the Commissioner of Police from, that perception that he or she may be biased in the carrying out of their duties.

And the function of the independent arms, the Police Service Commission, very often, you know, when these instruments are presented it is usually the independent arms who do the presentation—the Police Service Commission, the Public Service Commission, you know. So what is the message that you have for wanting this opportunity to intervene?

I recall, as well, Madam President, the former Chief Justice of this country, Justice Sat Sharma, he , at that time, had a disagreement with the then PNM Government and the interference that this nation saw, the blatant interference in what is supposed to be the sacred independence of the Judiciary, where the hon. Justice Sat Sharma was hounded out of office, is also an occasion for us to remember. And it seems to be that when you consider that all of these things would have been carried out, we ask ourselves: is this the governing style of the PNM? Is this the governing style of the PNM who would have put a Speaker of the Parliament under house arrest?

Very recently we saw where the Governor of the Central Bank got the axe. We saw where the Minister of Finance made no secret that he was in disagreement with the Governor who is an independent—the office of the Governor of the Central Bank is an independent office, and you had the opinion of an economist versus the opinion of an engineer on the economy and financial matters, but because somebody has power and because “we in charge” as they say, the gentleman was removed.

The message that goes out to any professional, any distinguished person who would be willing to serve in office, people who put themselves and who have a lot of integrity, is that they can be lynched by the political mob at any time. *[Interruption]* The victimization—yes, those are very strong actions, and the Government does not seem to believe that those things are serious. They seem to believe that, “Oh, we just get rid of him. Yeah.” But the victimization—

**Madam President:** Sen. Ameen, can you just come back to the Motion at hand, please?

**Sen. K. Ameen:** Certainly. The undermining of the independence and the perception and the sacredness of those independent offices, that is one in a series made by this legal notice with the request, follows in a series of actions by the Government. And if persons who are willing to serve this country in such high offices, such as the Chief Justice or the Governor of the Central Bank, or the Commissioner of Police, if those people can be lynched by a political agenda, what would happen to the ordinary man in Trinidad and Tobago? *[Desk thumping]*.

Madam President, as I speak of the ordinary man, I want to come back—you know, the issue of consultation has been spoken about by several other persons

contributing to this debate in the House today, and I listened to the contribution of the Attorney General, a lot of fancy language. You know, he came here with his straight shoulders and pink tie—

**Sen. Al-Rawi:** Thank you for noticing. [*Laughter*]

**Sen. K. Ameen:** And he came with a lot of flowery language. He listed a series of meetings.

**Hon. Senator:** He looks nice, eh?

**Sen. Al-Rawi:** I am a married man. [*Laughter*]

**Sen. K. Ameen:** He made it clear to us that he could add and subtract because he came up with a total of 21—[*Crosstalk*]

**Madam President:** All right. Sen. Ameen—[*Interruption*]

**Sen. Mark:** “Yuh inviting de lady or something?”

**Madam President:** Sen. Mark—

**Sen. Mark:** Sorry, sorry.

**Madam President:** Senators, we have been proceeding very nicely. I would like to hear Sen. Ameen and let her conclude her contribution. Sen. Ameen, no need to focus on the colour of the Attorney General’s tie. I think we can just deal with the Motions at hand, please. [*Crosstalk*]

**Sen. K. Ameen:** I did not list the good looks here. I just said he had straight shoulders and a pink tie. But, Madam President, my point is that, you know, the Attorney General came to this House and he listed, and he made us aware that he added and subtracted, but he came up with a total of 21 meetings or sessions and conversations called consultations. And I am not sure if he mentioned in all the

things that he quoted, where in these consultations, or meetings, or sessions it is documented that any of the participants in any of the reports given, recommended the changes made. He quoted Lord this, that and the other of all sorts of places, and that is good, but I do not recall him mentioning that the consultations he spoke about gave the recommendations to make these changes.

So, consultation is not having meetings and discussions and then going ahead and do what you want. Did the Police Service Association recommend these changes? Did the association and the commission, I should ask? Because they are key stakeholders. Did any of the committees that were formed over the years that he mentioned, did any of them recommend that the candidate for the Commissioner of Police or the Deputy Commissioner of Police should not have leadership skills or should not have communication skills?

**6.05 p.m.**

Did they say do away with that because it is inherent, it is expected? Did they say that you should reduce the number of years experience that these candidates should have? Did any of those stakeholders anywhere in any of those reports say we need political intervention in the appointment of a Police Commissioner or a Deputy Police Commissioner? I am asking. So for me to go and look up Lord this, that and the other, it does not answer my question, and the fact of consultation, the point of consultation is to take what is put forward and include it in what you are doing, and I do not see that that has happened before. I do not see that that happened, sorry, in this case. But I trust that perhaps some other Member on the other side may be able to provide the information as to where in the report that would have come. This is a continuing—this is a pattern. This

seems to be PNM's approach to consultation. You know, consultation was mentioned so many times, and other times that they came to this Parliament.

In fact, Madam President, last night I was at the local government consultation in Preysal High School—and last week or two weeks ago they held one in San Fernando—and I sat and I observed, and I saw that the approach to consultation does not appear to be taking people's contribution into consideration. It appears to be going to them to justify what you already plan to do. I am seeing that happening in the public domain in the local government consultation and I am seeing it happening in other places, and here we have this coming forward with the Attorney General telling the Senate today that what he quotes as consultations, what he refers to as consultations, and I questioned what the PNM's understanding of consultation is.

So when they do in fact consult, they insult because they claim to consult, they talk with people and they waste people's time. Do not do that to the people of Trinidad and Tobago. The approach of "We in charge", this Government seems to be intent on doing what it wants at the end of the day. You have other areas where there are decisions with serious implications on the public, you have this situation today with the Commissioner of Police. You had the situation where a major decision to increase taxes, to increase VAT that was a major con job. It was referred to as a major con job. An article in the *Express* editorial called it a major con job. Mr. Sahadeo Ragoonanan:

"I was a bit relieved when I heard that VAT would be reduced to 12.5 per cent, but it"—was—"an elaborate con job."

That is the view of many people in the public domain. Who was consulted

before they raised VAT; before they increased the number of items removed from the zero-rated list? *[Interruption]* I am speaking about consultation when the Prime Minister before election gave the assurance that the items on the zero-rated listings would not be removed. He gave the assurance. He is on record as giving that assurance, but after the election no consultation because “dem” in charge so they do what they want.

Today, you have VAT on books, VAT on computers, and the Chaguanas Chamber in today’s *Express*, I think it was page 22 or something, the headline is, “VAT on books, computers a backwards step”. Were the consumers ever consulted? Were the business owners ever consulted? You increased VAT, you increased business levy, you increased—*[Interruption]*

**Madam President:** Senator Ameen, I am sorry. We are not dealing with VAT on anything. We are dealing with the Motions at hand. I understand the point you are making about consultation, but tie it up to the Motions at hand please.

**Sen. K. Ameen:** Certainly. Madam President, I thank you and I want to reiterate that the Government’s whole approach to consultation actually marginalizes many sections of the society. So you have people being marginalized because of taxes, you have people marginalized because of where they live. I mean, there is this issue with the south campus of UWI and so on. You know there are so many areas, but I want to move away from consultation because I think the Government has been getting a lot of blows—and I trust they will listen—in the public domain about their lack of consultation with regard to bringing these measures.

**Madam President:** Sen. Ameen, you have five more minutes.

**Sen. K. Ameen:** Certainly. Earlier as well, the Attorney General indicated

something that I found very misleading. I think he was implying that the Opposition is asking to go back to the 2009 method of recruiting, and I just want to put on the record that the UNC at the time in Opposition objected to the 2009 changes just as we are objecting today. A Motion was brought by Subhas Panday at that time and the process had already been triggered when the Partnership came into Government in 2010.

In fact, the debate, I believe, was on July 02 because it was published in the newspaper on July 03, and the process to procure a Commissioner of Police was already under way. It came to Parliament when the Partnership—so it saw a change in Government, but the Partnership allowed the process to take place because of the critical nature of getting crime under control. The Partnership did not interfere with the process or stop that process. They brought the recommendations to Parliament and Members on both sides had their say. So it is misleading to say that, you know, the Partnership Government would have interfered or objected and so on.

But to wrap up, Madam President, I want to reiterate that crime and the security of our citizens is a critical matter, and the Opposition remains committed to participating in meaningful discussions with the Government as indicated by the Leader of Opposition to get crime under control and to secure our citizens. I trust that the Government will see it fit to withdraw this notice and to allow consultation because it would not take very long. It has been up in the air for how many years and a few more weeks will not hurt. So I want to suggest that they withdraw, that they have the necessary consultations and then come back to Parliament so we can give the support.

Thank you. [*Desk thumping*]

**Madam President:** The Leader of Government Business.

**The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan):** Madam President, I join to make a brief interjection in this debate on the Motion before the Senate, which seeks to nullify and annul Legal Notices 218 and 219. But before I delve into the subject matter, I just want to respond to some of the comments made by both the Opposition and the Independent Benches.

Madam President, it is Sen. Mark who brought this into the debate, so I think I need to respond. It is with a great sense of regret that I heard him say that under no circumstance will the United National Congress be supporting the Caribbean Court of Justice, and I still want to hope against hope because he is not the political leader of the United National Congress. And unless that comes from the mouth of the leader herself, I will still not want to believe that because, Madam President, it was Mr. Panday who signed the CCJ Agreement in 2001.

They were so committed to that court that they agreed to house the headquarters of the court in Port of Spain, only to renege on that commitment after the Government changed, when the Patrick Manning administration came in at the 18/18 and subsequently in 2002— reneging on a commitment to Caricom, reneging on a commitment to bring an independent court and an appellate court under the Caricom jurisdiction. Then comes the hon. Member for Siparia, and I think this is one of the most regrettable statements that was ever made because she did not know at the time that she would have been Prime Minister of this country, when she indicated that the problem that the UNC had with the Caribbean Court of



Justice is because there were insufficient East Indians on the bench. It was a regrettable statement at the highest level. I know personally that she regretted it because she never felt that she would have attained the highest position in the country to become Prime Minister.

But, Madam President, that having been said, this Government is committed to bringing legislation to this Parliament to make the Caribbean Court of Justice the final appellate court in Trinidad and Tobago. [*Desk thumping*] I just want to quote one thing before I leave this point. I remember Mr. Manning telling me once that on the matter of this court he had some discussions with the Prime Minister of India, and the Prime Minister of India told him the Supreme Court of India is supreme. You cannot say that for your country. Let me repeat that. The Supreme Court of India is supreme. The Supreme Court of Trinidad and Tobago is not supreme, and that is what independence is all about. That is what we have struggled hard and we have toiled to unlock the shackles of colonialism, so that today we are an independent country and we are an independent republic with a democracy. [*Desk thumping*]

**Sen. Mark:** Bring the legislation.

**Hon. Al-Rawi:** It requires a special majority.

**Sen. Mark:** Yes.

**Sen. The Hon. F. Khan:** Well, yes, but at least we will expose you and you will have to come and account to the nation why you would not be supporting legislation to that effect. [*Desk thumping*] I will leave there. I now deal with Sen. Roach, wonderful contribution. I like Sen. Roach because he is very brief and to the point, and he makes sterling contributions to this Senate. [*Desk thumping*] He

made a very valid point which I just discussed with the Attorney General, where he said the merit list should not be for one year. It should be for two years because the bureaucracy of this country is so slow and sometimes the process may not be completed, and then the merit list becomes defunct and then you have to start the process all over again. But I just want to draw his attention that this is a Motion to annul, and probably later on we could consider this and some of the other recommendations made by Sen. Chote in particular, that we can bring a subsequent Order at a later date to deal with some of these matters raised in particular by the Independent Bench.

**Sen. Mark:** But you need to consult.

**Hon. Senator:** You need to consult more.

**Sen. The Hon. F. Khan:** But I will deal with the consultation aspect—  
[*Interruption*]

**Sen. Mark:** Later.

**Sen. The Hon. F. Khan:** No, no, no, I will deal with it now.

Madam President, when does a Government have the authority to act; and when does a Government need to consult? There are a lot of grey areas there. We are committed to consultation but, more importantly, we are committed to consultation on the formulation of policy. That is what consultation is all about. You want to bring about constitutional changes, you consult. You want to make policy shifts for the country, you consult.

For example, Sen. Ameen spoke about the consultation on local government. That is a fundamental change in governance structure of local government. We will be hosting 14 consultations throughout the 14 regional corporations, and she is

wrong to say that we are not listening to the people. We are starting the process from ground zero and we are not forcing our ideas on them, and that is what the consultation is all about.

**Sen. Ameen:** I will be there. Do not worry, I will be there.

**Sen. The Hon. F. Khan:** What she pines about is that I, as Minister of Rural Development and Local Government, went down to the Couva/Tabaquite/Talparo Regional Corporation where there is only one PNM councillor, 12 UNC councillors and I had the whole corporation eating out of my hand. [*Desk thumping*]

**Hon Senator:** That was nice.

**6.20 p.m.**

**Sen. The Hon. F. Khan:** I was warmly welcomed, I was well received, I was complimented, I was articulate and I was very intellectually in articulating the policy position of this PNM administration. That is what is hurting her. [*Crosstalk*] Our next consultation will be in Sangre Grande and then after that, we are going down to Siparia, in the constituency of the—

**Madam President:** Hon. Minister, please, address the Chair.

**Sen. The Hon. F. Khan:** Thank you, Madam President. So, Madam President, consultation. We are committed to consultation on policy. Again, I do not want to say what the UNC did, what the UNC did, but on the run-off Bill, was there consultation on that? It formed no part of the constitutional reform consultation that was headed by Mr. Prakash Ramadhar, like “ah thief in the night”, they brought it up. The proportional representation component of the Municipal Corporations Act was passed one month before the local government election of

2013 serendipitously.

**Sen. Ameen:** “So yuh going to take it off?”

**Sen. The Hon. F. Khan:** I am not going to take it off, but you speak of consultation, these are fundamental changes. What we are debating here is just an Order which is supplemental legislation. [*Interruption*] No, it is not an order but—[*Interruption*] No, no, what we are talking about and I will go on to say where some of the changes are not so fundamental to talk about them. It is just changing who will be initiating the process. I am not saying—[*Interruption*] Yeah, and everything the AG has explained.

But the point I am making, we are a consulting Government. We will be hosting a national consultation on education in February. As we speak, the Ministry of Finance is consulting on the Gambling and Betting Ordinance. Okay. We will be discussing what role casino gambling is playing in the country and the credit union movement. We will be discussing with the IRO how do we plan to deal with casinos. So, Madam President, I make the point finally, we are committed to consultation on policy and where is possible. We are a Cabinet and we have been elected to govern this country and we will be taking our mandate to that level.

But, Madam President, let me get back to this idea of national security. I am not an attorney-at-law, so order this and order that, I will stay away from it. But I just want to make some general principles that govern society and to show how, as a national society, we fit into this thing. And let me, again, start from ground zero. National security is paramount in the nation state, everybody knows that. I do not want to offend Sen. Rodger Samuel but as a geologist, I am trained in paleontology

and I am trained in what we call the fossil record, and I am versed in what is called the theory of evolution.

When Homo erectus evolved into Homo sapiens and they appeared on the plains of the East African Rift, they formed themselves into tribes and the concept of the tribe was to be a social unit. The enemy of tribe was the other tribe. So security to the tribe meant you secure the clan from external influence and external threats. As the nation state evolved and modern civilization took root, the tribe went into feudal lords in Europe and then the nation state took root, and the nation state became a complex entity. So two matters of national security came into play. One was defence which was external threat and, for the first time in the evolution of human society, an internal threat was defined, and the internal threat morphed into the Ministry of Home Affairs, Ministry of National Security. But the national security of the nation state became paramount and in some societies, even more important than external security. America, China, Russia, they are world-powers; external security is paramount to their civilization. But in our case, our internal security is the most important.

It is because of that concept of internal security and national security that the whole concept of the failed State evolved. And today, you have failing States like Syria, like Iraq, like Yemen, like Afghanistan. But I am just putting the national security thesis into perspective. And that leads me on to my discourse on Trinidad because this debate has a chronology to it. Because what it demonstrates is that as a society and as a plural society, we have great difficulty in building consensus on matters of urgent national importance, and I will show why. Because we not being able to handle this matter of a Commissioner of Police and police legislation probably that has had the most serious negative effect on crime, because somehow

the system does not seem to be working.

Let me start from ground zero. This whole process started in 2000. In 2000, one, Ramdhanie who miraculously escaped police custody down in Cedros and then took a pirogue to Venezuela exposed, at its rawest level, major deficiencies in the police service. Patrick Manning was the Opposition Leader at the time. It brought a bitter taste to his mouth—I am quoting him—and he felt so aggrieved by that situation with Ramdhanie that he went to Mr. Panday at the time and said, let us work together, we have to solve this problem. Shortly after that, the Government changed and Mr. Manning and Mr. Panday—due respect to those two statesmen—continued to work on this issue of police reform. And Mr. Manning—sorry for the phrase—had to swallow his spit and make serious concessions for Mr. Panday and the UNC because Mr. Panday dug his heel in the sand and said we are not moving unless we get A, B, C and D—the most important of which was the Prime Minister to give up his veto power in the appointment of a Commissioner of Police. That is the most significant shift that has occurred in all this entire legislation.

It is the UNC and Mr. Panday who insisted that we had a foreign firm to do the recruitment. It is Mr. Panday and the UNC who insisted that we had this convoluted process to appoint a Commissioner of Police, and it was Mr. Panday who insisted that the Prime Minister of the day give up his veto power and that that veto power came into the hands of the Parliament where the nominee for the Commissioner of Police has to be debated and approved by the House. Having said that, Mr. Manning felt so strongly about the matter—the hon. Prime Minister Manning at the time—that he said we have to find solutions to the crime situation in Trinidad and Tobago. Trinidad and Tobago cannot become a failed State

because of the level of crime that was being perpetrated in the country, so he made these concessions.

And from these concessions, in 2006, a package of legislation which we called the police Bills at the time was passed. It included a Constitution (Amdt.) Act 2006, which is Act No. 6 of 2006; the Police Service (Amdt.) Act, 2006, which is Act No. 7 of 2006, and the Police Complaints Authority Act, 2006, which is Act No. 8 of 2006. All these Bills went on to become law and Acts on January 01, 2007, and then the process started for the recruitment of a Commissioner of Police.

The hon. Attorney General, either in this House or in the other place, indicated \$8 million was spent; how much was spent. It was more than the salary of the Commissioner of Police for several years and that whole convoluted process cost this country—not money, \$8 million, in a sense, is small money in the context of the Trinidad budget at the time. But it cost us a lot of ground in terms of our fight against crime.

Look at the passionate appeal of the Minister of National Security. If you have a conscience and you listen to the hon. Minister of National Security, you will understand how he feels about the matter.

**Sen. Mark:** “He go fool me?”

**Sen. The Hon. F. Khan:** Good, and he is committed to his work and he wants a solution to the problems that we face. This is not no laughing—this is national security, the single most important issue that faces the nation state, as I just explained to, the evolution of this process. [*Interruption*]

**Madam President:** Sen. Mark.

**Sen. Mark:** Sorry, Madam President.

**Sen. The Hon. F. Khan:** We ended up appointing Dr. Gibbs as Commissioner of Police and DCP Ewatski. Out of the blue, I think Mr. Jack Warner was the Minister of National Security at the time, they were summarily dismissed. It is claimed that they resigned, but if you resign, why would they pay off your entire contract? So that was just pulling wool over the national population's eye. Okay? And that was in 2012 and nothing has happened from 2012. We are now in January 2016. Because it is the opinion of this administration that it is the way these legal notices are worded.

Added to which, whether we like it or not, a Government is elected into office to govern. We were on the campaign trail and we made certain commitments to the national population, among other things, that we will make the recruitment process of the Commissioner of Police less cumbersome, less convoluted. We will make it as transparent as possible and obviously, we will never encroach on the purview or the space of the Police Service Commission.

So what we have proposed, as Minister Imbert so articulately put it in the House, with regard to the selection process, it is basically one matter we are dealing with and how is this matter interpreted. In 2009 Order, it states under 3(a):

“the Director of Personnel Administration shall...”

Shall, may, shall, that is for the legal people to decide.

“the Director of Personnel Administration shall, in accordance with section 20A(1)(c) of the Central Tenders Board Act, contract a firm experienced in conducting assessments of senior police managers to conduct an assessment process and the firm so contracted (hereinafter referred to as ‘the Firm’) shall consult with the Commission upon the completion of each stage of the



process;”

All that has happened here is that the initiator of the process is now—and I read section 3(a):

“the Commission on request of the Minister of National Security shall, in accordance with...”—the same Act—“contract an appropriate local firm...”

So there are two changes. We move out the Director of Personnel Administration. Who does the Director of Personnel Administration report to? Because the initiator, if it is now the Minister of National Security, the Minister is not part of the process. He is not interfering with the Police Service Commission but he is accountable to the nation for matters of national security.

**6.35 p.m.**

All he is doing, he would not sit idly by now, with no Commissioner of Police, who has gotten his seventh extension for three and a half years, and still I ask the question to you, Madam President, why did the Director of Personnel Administration not act over the last three and half years? The Minister of National Security—this is a democracy. This is why the Parliament is here. The Minister of National Security is accountable to the people of Trinidad and Tobago for matters of national security. So, what is so wrong in the Minister of National Security initiating the process for the selection of a Commissioner of Police? That has absolutely nothing to do with breaching the Constitution and the separation of powers. So I made the point.

The other change which has been largely accepted is that—what is the name of the university they took on?

**Hon. Al-Rawi:** Penn State.

**Sen. The Hon. F. Khan:** Penn State; for heaven's sake, a local human resource firm can be mandated to recruit. They recruited the president of Petrotrin, they recruited the president of NGC.

**Hon. Senator:** "Look whey Petrotrin is." [*Laughter*]

**Sen. The Hon. F. Khan:** Good. They recruited all the thing. You have to have confidence in your people. That is what independence is about. [*Crosstalk*] So you are saying that there are no local firms in Trinidad—[*Interruption*] Madam President, I need—a local firm will be engaged to contract—an appropriate local firm hereinafter to conduct a recruitment process included inviting applications for the position.

All the Minister of National Security is—initiating the process, you know. The commission on the request of—check the language, on the request of—"dey come with ting about who will geh de contract, and whether is Watkins, or whether is dis one, or whether is dat one". And how there is this—[*Interruption*] and Eastman, they spoke about in the House last night; Eastman and Associates, okay. How—[*Interruption*]

**Madam President:** Hold on. Let us just hear the Minister's contribution, please. Thank you.

**Sen. The Hon. F. Khan:**—and Eastman and Associates, and how we have already handpicked the Commissioner of Police. The AG said, the Prime Minister said last night, "leh me" put it on record. The Prime Minister said last night in the other place, "I have no horse in the race". The Attorney General who is the next person in the pecking order of this process, recently said when he was closing off his contribution, he has no horse in the race. I speak now on behalf of the Minister of

National Security because I trust him and he is a man of great integrity. The Minister of National Security has no horse in the race. Now, I speak finally as Chairman of the People's National Movement, the PNM has no horse in the race.  
[*Desk thumping*]

All we want is—[*Interruption*] because, Madam President, all we want is a Commissioner of Police that has the capability, that has the capacity and has the acumen to lead the police service of Trinidad and Tobago. Again, I refer to the passionate plea of the Minister of National Security. That is all we want, and that is what we are trying to do. And, Madam President, we will do it with a matter of dispatch, and a matter of haste, and we will do it properly and we will do it to the benefit of the people of Trinidad and Tobago.

I just want to deal now with a local firm and a local Commissioner of Police. Again, it was the UNC, under Mr. Panday in making the compromise to Prime Minister Manning at the time, that insisted that we do not restrict it to a local officer, that we must look for best in class, advertise internationally to get the best person. At the point in time, it had some merit. I would say so myself, okay? We said, okay, we will go out to the international audience. There may be a former Commissioner of Police out of New York, who did so much good work, out of Chicago or what have you, what have you. We got somebody out of Canada, and it really did not work out well for the people of Trinidad and Tobago.

Today, we are saying there is sufficient expertise as the Minister of National Security indicated, coming out of the local fraternity to easily—I can guarantee you that there will be at least 10 persons who will be eminently qualified to hold the position of Commissioner of Police. The problem would be not in finding

eminently qualified persons, but in selecting one out of the list of eminently qualified persons for the position of Commissioner of Police.

You heard from the Minister of National Security, when he went to train in Canada, he used to top the class. Our military personnel, most of them in the days of Shah and Lassalle, they are Sandhurst trained. I do not know if you are Sandhurst trained also.

**Hon. Maj. Gen. Dillon:** I am Sandhurst trained.

**Sen. The Hon. F. Khan:** Sandhurst trained, good. And they topped the Commonwealth in a lot of courses. When you go to the police—look, right now, we have—how the calypsonian name again?

**Hon. Senator:** Wayne Hayde, Watchman.

**Sen. The Hon. F. Khan:** Yeah, Watchman he is in East Timor, I think. [*Interruption*] He is the Chief of Police, Interpol now, but he was the Commissioner of Police in East Timor, UNPOL. So there is a cadre of qualified people. Sen. Dhanayshar, they say he is one of the top economists on this side of the hemisphere, and I believe that. I honestly believe that, good? [*Interruption and laughter*] No, no. I consider myself one of the top geologists in the country. So that is fine. We have Sen. Small, an energy expert, internationally known and recognized. He showed me his calendar from now until March, he is occupied every day, here and abroad.

**Sen. Gopee-Scoon:** Who is it?

**Sen. The Hon. F. Khan:** Sen. Small, okay? I would not tell you what his fees are. [*Laughter*]

So, Madam President, we have the expertise. So I have highlighted the issue

of the Commissioner of Police replacing the DPA. I have highlighted the position of a local human resource firm to do the recruiting process. Nothing has changed in the context of the Police Service Commission, and I now deal with the position of a Commissioner of Police being a national of Trinidad and Tobago. Obviously nothing is wrong with that.

I just want to deal finally with the issue that Sen. Chote made about, why was 3 deleted which states:

“A candidate for the office of Commissioner of Police or Deputy Commissioner of Police shall meet the following core criteria:

leadership...

management...

communications...

commitment to the cause of the organization;

...requisite vision...and

integrity...”

And there are pros and cons in what we have done here, because what we did not take out is that:

“A candidate for the office of Commissioner of Police shall be a national of Trinidad and Tobago and shall have—”—first and foremost—“a degree from a University recognized by the Ministry responsible for higher education in...the following areas:

law;

criminal justice;

criminology;  
police service management; or  
any other relevant degree; and

no less than fifteen years' experience of increasing responsibility in law enforcement.”

This is measureable, okay? And sometimes when you are doing advertisement for jobs, there is a limit to where you put what you want, and in what document you put it in. The Police Service Commission will be able to set criteria and very likely they will set criteria along these lines. But to actually put it in a legal notice, it is really too prescriptive.

For example, let us say—I am not a lawyer, but I am purporting something here. This is a legal notice. [*Sen. Khan holds up a document*] Let us say a Commissioner of Police is selected, that is so obvious that he has no communication skills. Can somebody go to court and say, “You have breached this legal notice”? But when you are silent on matters like these, when it forms part of the administration of the process, which is left up to the Police Service Commission to set criteria, I think you are standing on firmer ground, okay? Because what I—and I want to choose my words carefully here, Madam President, what I took objection to in some of the contributions in this debate, was that for small matters they saw the most sinister of plots, and accused the Government of it. By just saying that we will take a local firm, men went ahead to say that we want to set up Mongoose Gang and Tonton Macoute, [*Laughter*] and all these sort of things. I mean, it is ridiculous.

Just because we said, let a local agency do the recruitment process, give the

Police Service Commission the power to do their jobs without interference of the thing, all of a sudden, we have a candidate, we have a Mongoose Gang in the making. All sorts of sinister motives they have been attributing to this Government, when all this Government wants to do is move ahead with the process of enforcing law and order in Trinidad and Tobago, and fundamental, and probably most fundamental to that process, is the appointment of a permanent Commissioner of Police. [*Desk thumping*]

So, I want to give the nation the assurance that this Government has no sinister motives. It has no intention to put anybody in particular to that position. It would let due process take its course, and to—the process, and we hope and we feel very confident that the process will bring to the fore the most qualified and the most competent person to hold that position.

So, Madam President, with these few words, I want to thank you for making this contribution. [*Desk thumping*]

**Sen. Dr. Dhanayshar Mahabir:** [*Desk thumping*] Thank you very much, Madam President. As I join in this debate, I come after the two legal specialists on my bench, and I hope—[*Interruption*]

**Sen. Gopee-Scoon:** The voice of reason.

**Sen. Dr. D. Mahabir:**—and, of course, the voice of reason. I have heard many excellent contributions from the entire Chamber. The reason is, Madam President, despite the crosstalk which I find sometimes a little entertaining, sometimes a little distracting, but really, I think every single Senator in this Chamber has something in common, regardless of where we sit, and that is at this time, all of us have a keen interest in ensuring that the country has the best Police Commissioner that we

could find to administer the police force. [*Desk thumping*]

That is the underlying result that we would like to get, because there are two critical problems facing the country. One, the uncertainty facing the economy, and many of us on our bench have given the assurance to the Minister of Finance that we will do what we can to provide the guidance necessary. So what the Government is doing that is good, we will ensure that the public is aware of it, and what we think can be changed because we are navigating difficult terrain, it will be raised fearlessly.

With respect to economic management: that is the first big problem that we have to grapple with. All of us are in agreement here. The second problem is that we have had an escalating crime rate: violent crime, white-collar crime, a crime scourge that is not disappearing. So that while our incomes are falling, and we are losing welfare on account of a deterioration in our purchasing power, we find that our security comfort is declining in tandem.

The Government does not wish to have this, the Opposition does not wish to have this, and the Independents certainly do not wish to have a declining economy with an escalating crime rate. So we want to commit—I would like to commit to the Minister of National Security that I too understand the urgency with which we need to appoint a permanent Commissioner of Police, but at the same time we want to get the best that we could get.

**6.50 p.m.**

We want urgency but we also want to get the best possible for Trinidad and Tobago at this time. Madam President, how do we go about recruiting our best? How do we go about attracting our best? How do we go about retaining our best?



I have heard a great deal about the intellect of the Trinidadian and Tobagonian. Madam President, I can say, with a measure of certainty, that on a per capita basis, internationally, we have perhaps the best per thousand in terms of capability, training and intellect, and intelligence in Trinidad and Tobago.

I see my colleagues all over, and you compare internationally and then you ask yourself, why with this abundance of manpower we cannot come together to attract the best possible so that we can build that which is necessary to elevate Trinidad and Tobago to above its potential? You know, when we say Trinidad and Tobago has potential, what we are saying is it has not done it yet. We have the capability, why have we not done it yet? Madam President, no society can develop if it does not build and grow its organizations, its institutions, and its various permanent structures.

What is a successful organization?—like the police service, the Police Service Commission, and I am coming to the Parliament and the Judiciary. It is a group, according to Drucker, the guru of management, an institution has some history, an organization has some background, but it is a group of ordinary people coming together to do extraordinary things. That is what successful military is about, ordinary military people coming together in their various divisions to defend their country in an extraordinary way.

We need to focus, Madam President, on the building of institutions, and before us is an annulment order. So we have a great desire, all of us, to recruit the best Commissioner of Police, but, at the same time, we want an annulment order to that effect. Why the annulment order? Something, somehow has gone wrong whenever we ask for an order to be annulled. Whenever we request any contract to

be annulled, something has gone fundamentally wrong. Take an insurance contract, whenever you apply for life insurance and you did not indicate to the insurance company that you have been diagnosed with some form of cancer or any ailment, and you subsequently were to pass on, the insurance company can annul the contract because you did not disclose material information that you had to.

Let us talk about the annulment of the legal notices aimed at recruiting a Commissioner of Police. Madam President, we need to build all institutions. In the days ahead Trinidad and Tobago is going to navigate some difficult terrain in the international economy, and we need the strength of institutions to do it. One of the institutions that has been working very well in this country is the institution of Parliament. We have seen, over the last little while, how Parliament has been functioning. Madam President, every time I come to the Senate I know I must take orders from one person only, and that is the President of the Senate. When she invites me to rise, I will rise, and when she tells me to sit, I will sit like how soon. I know, because she is guided by something known as the Standing Orders, her job is to enforce these Standing Orders, and the Standing Orders provide for me the rules within which I can operate, the parameters, the framework. I must not go out. If I were to get on the border of the Standing Orders some Member will rise and say that I am in violation, and then Madam President will have to rule.

Madam President, let me, as I focus on the annulment of the Order, of this legal notice, refer this honourable Chamber, through you, Madam President, to Standing Order No. 21, page 15 on the Standing Orders, and I refer to Standing Order 21(7). Standing Order 21(7) is very clear, it says:

“Any statutory instrument made under the authority of any law and required

to be laid before the Senate, shall be submitted to Parliament no later than two (2) days after the date upon which it was enacted or Gazetted, and laid on the Table no later than seven (7) days thereafter.”

The Standing Orders are very clear, Madam President; I cannot violate a Standing Order. I could be taken before the Privileges Committee for doing that. These orders are sacred. You could understand my chagrin when on the last day we came and met in the House I was made aware of the legal notices that were the subject of these annulment Motions.

Madam President, the Order on page 15, that Standing Order page 15, said that it must be laid no later than two days after the date upon which it was enacted or gazetted. From the notice I had, this particular legal notice was gazetted somewhere, I think, on December 16, so it should, if we are to follow and understand where I am going, we need to respect the structure of Parliament. Too often we disrespect institutions in Trinidad and Tobago. Let it not be here. [*Desk thumping*] Parliament is sacred. Madam President, there are two documents; before I became a parliamentarian I did not know how important they were, but now the Standing Orders and the Constitution are the two documents I always refer whenever I am in doubt. I can violate many things, I cannot violate that.

Madam President, it should not be that a legal notice to annul should come to my attention simply because the Opposition has filed a Motion to annul. There is a process and there is a procedure that we need to ensure that this Parliament adopts. Let me focus, Madam President, on Standing Order 83. Standing Order 83 focuses on the Statutory Instruments Committee. There is a process by which these legal notices were supposed to come to my attention. There is in this House

a Statutory Instruments Committee. As coordinator of the bench I was asked: Could you nominate someone on your bench to sit on the Statutory Instruments Committee? And my question was, well, what are statutory instruments?—because I am coming to this from a non-legal perspective. When it was explained by parliamentary staff what these instruments were, they are the instruments prepared under authority from us, by laws passed by us, by other agencies, I said: Well, we absolutely need our legal personnel on the bench to sit on this committee. And, clearly, when I looked at Standing Order 83, it says—so with respect to process these notices, having been published in the Gazette on December 16, should have come to our attention very shortly afterwards, according to what exists on Standing Order 7 of our Standing Orders, 21(7).

Madam President, under Standing Order 83, Statutory Instruments Committee, it says that:

“The Statutory Instruments Committee shall consider Statutory Instruments that are subject to the negative resolution of the Senate or the Parliament, as the case may be. It shall have the duty, inter alia, of bringing to the attention of the Senate any such instrument—

(c) the making of which appears to constitute an unusual or unexpected use of the powers conferred by the law under which it was made”

So under 83(3), the Statutory Instruments Committee, made up of the Members from the Senate from all the benches, would look at these instruments to determine that they do not constitute any unusual or unexpected use of the powers conferred by the law under which it was made, conferred by the parent law. When we look at 83(e), it appears that the Statutory Instruments Committee should investigate the

publication or the laying before the Senate of which appears to not being unduly delayed. So that any instrument, the publication or the laying before the Senate of which appears to have been unduly delayed, is the business of this committee.

Finally, the Statutory Instruments Committee shall have the duty inter alia of bringing to the attention of the Senate any such instrument which under (i), which it considers is not in accordance with the letter, the spirit or the intention of the enabling Act. Let me focus on 83(i):

“Any Statutory Instrument—“It shall have the duty...of bringing to the attention of the Senate any such instrument—

(i) which it considers is not in accordance with the letter, spirit or intention of its enabling Act.”

Madam President, when I look at the Standing Orders, I see that, clearly, the Standing Orders indicate to me that there is a strong case for annulment. [*Desk thumping*]

But, Madam Speaker, I would like to look at the enabling legislation. The enabling legislation—I go to the Supreme Law, the Constitution, and in the Constitution it says, under section 123:

“The Police Service Commission shall have the power to—

appoint persons to hold or act in the office of Commissioner and Deputy Commissioner of Police”

So, the Police Service Commission shall have the power to appoint persons to hold or act in the office of Commissioner and Deputy Commissioner of Police. Under 123(2), it says:

“The Police Service Commission shall nominate persons for appointment to

the offices specified in subsection (1)(a) and section 22(1) of the Police Service Act in accordance with the criteria and procedure prescribed by Order of the President, subject to”—the—“negative resolution of Parliament.”

My reading of this, Madam President, and there is no constitutional expert here, I know a little bit about economics, and so on, and I will be coming to the economics of the appointment, because there are some economic issues involved in the appointment. But my reading of this, section 123(2), is really that the enabling legislation for these legal notices will have to be the Constitution, section 123(2), which allows the Police Service Commission to engage in the preparation of these notices so that they can go about recruiting their Commissioner of Police.

Now, what we have is a situation where somehow along the way Parliament has gotten involved in this process. When it happened, I do not know, because, Madam President, when I looked prior at what was submitted I have seen that there were police commissioners appointed all the way from the 1930s and '40s—in some we can identify some of their names. I do not know if every time a Commissioner of Police was appointed prior 2000, we had to have these legal notices, and the Police Service Commission went through the same process and there were a lot of meanderings, or whether there was a much more straightforward process prior to the year 2000.

**7.05 p.m.**

We have had, Madam President—thank you very much. We have had from 1931 to 1938, colonial era, Colonel Mavrogordato; 1938 to 1948, Colonel Muller. That is in the colonial period. Coming closer to our period, 1962 to 1966, George

Thomas Carr. How come we were appointing police commissioners with some regularity? 1966 to 1970, James Reid; '70 to '73, Francis Bernard; '73 to '73 Claude May; '78—well Randolph Burroughs had long tenure—'78 to '87 Randolph Burroughs; '87 to '90—and I go on and on. We have had, in the past, police commissioners appointed for lengthy periods and I do not know if there was any issue with a process then. But somehow we have found that the Prime Minister then got a veto and we have had that that veto was moved and Parliament had the veto.

Madam President, when I heard that Parliament has a veto, I went back to the Constitution and I was happy to get the insight of my very learned colleague, the Attorney General, Faris Al-Rawi who sat in the Senate—and I will have something to say a little bit more about the association I have had with him in an earlier incarnation to prove a point that I want to make. But really he said, according to the Constitution there shall be a Cabinet. But, Madam President, according to the Constitution, under section 39, it says:

“There shall be a Parliament of Trinidad and Tobago which shall consist of the President, the Senate and the House of Representatives.”

So when we say Parliament has to be involved in the appointment or in determining or in approving, or in some way being involved in this office of the commissioner, we mean not only the other place, but we mean the Senate as well.

And further on:

“The Senate shall consist of thirty-one members...”—and of the 31 Senators, nine—“...shall be appointed by the President...”

So the Parliament will include the other place. It will include this Chamber

and it must include the Independent Bench. The Independent Bench must be included in the Parliament. It cannot be only Opposition and Government involved in this particular process. Once Parliament is involved, it has—and I will argue a case of how the Independent Bench will be involved in this particular—or should be involved in this process. So Parliament has gotten involved in some way and the process then became a bit complex.

Madam President, what we have now is this: We have a situation where the Constitution established service commissions. The service commissions were meant—we have the Public Service Commission, the Teaching Service Commission, the Police Service Commission. These service commissions were meant in some way to ensure that in certain arms of the State, we operate at an arm's length in terms of recruitment, in the recruitment of the individuals there.

We have to ask ourselves whether we going to build the service commissions or whether we are going, like in all institutions that we see, we are going to subject the service commissions now to gradual deterioration over time and the Executive branch of Government whoever holds the power. On one occasion it will be those who sit on the government side and another occasion it will be those who sit in front of me, but are we going to undermine the effectiveness of these service commissions and provide all the power to the Executive? I will argue, let us be true to spirit of the Constitution. The spirit of the Constitution gave the Police Service Commission the responsibility for recruiting this Commissioner of Police.

And I have read the notices and I have asked myself—well let me look at what one section of it says. It says—the proposed amendment under 3:



“the Commission on request of the Minister of National Security...”—

So I am wondering why the commission on its own? Simple questions. Why can the Police Service Commission on its own not determine, well you know, we need a Police Service Commissioner, but if the Minister of National Security has to prompt them, let him so prompt. But:

“the Commission on the request of the Minister shall, in accordance with”—  
 the—“section...of the Central Tenders Board Act, contract an appropriate  
 local firm...”

I have seen one—when I read the Central Tenders Board Act, I read about NIPDEC. Well I have another story to say about NIPDEC. They refused to appear before the Joint Select Committee in the Tenth Parliament telling us that it was a courtesy they were doing and a favour. But that is another matter. We will deal with that then. But my point is focusing on this concept.

“the Commission...shall in accordance with”—the—“section...of the  
 Central Tenders Board Act, contract an appropriate local firm...”

Let us ask ourselves a simple question: Why does the Police Service Commission need to contract a firm to do work for it? Has someone proven to me that in some way the Police Service Commission has a certain level of incapacity to discharge its function on its own? Has that been unequivocally proven?

Madam President, in an earlier incarnation I was chairman of a commission not quite like the Public Service Commission, it was the Public Utilities Commission. That commission—that was in the late '90s.

**Hon. Al-Rawi:** I remember that.

**Sen. Dr. D. Mahabir:** Yes. And the Attorney General will remember. That is

where I am coming to draw you in, Attorney General. In the late '90s both of us were young men. The Attorney General was a bit younger. I was chairman of the Public Utilities Commission. The Public Utilities Commission was denuded of staff. We had to recruit everyone from captain to cook, from sweeper down to CEO. Did we contract a local firm to do that?

Madam President, those were the days, late 1980s, the price of oil \$9 a barrel. We were told, well go ahead and recruit. What did we do? I am talking about 20-something years ago, or 20 years ago. We simply paid a few hundred dollars to an HR specialist to write the ad for us because we did not know how to put that ad together from an HR point of view. It was paid for, I think it was less than \$1,000. The money spent was spent on the local press and all the interviewing was done by commission staff. I remember as chairman recruiting a whole research team. We did not have to go to a local firm.

And the question I am posing is this, from the economic angle—and incidentally, Madam President, I conducted a public hearing on rate increase for electricity, and a young attorney appeared before me and he is appearing before me again and he was very impressive then, as he is impressive now. It was attorney Faris Al-Rawi taking instruction from a more senior attorney, Douglas Mendes, at the time. That was 20 years ago. That was the first case I understand he had and it was the time I did a public hearing. I did not know any law then, and I know even less law now.

But the reality is that commissions have been doing this work for a long, long time. When did this issue of getting a firm to recruit for a commission come? I do not know, but it is clearly inefficient because what we have to ask ourselves is, what

advantage does this private firm have over the commission's staff itself? Or you know, if I were in that commission and I am recruiting people, all I will do is that I will hire an HR specialist if I do not have one, on contract, and I will say, help me write these things and as the applications come in we will sort them out.

Madam President, someone has to prove to me that there is a need for a private agency, a firm, to engage in this action that the Police Service Commission in my mind should be doing on its own. Why do I say that? When I look at the supreme law again, we know one thing: The police service is made up of various ranks from the most junior recruit you get out of the training college up to the commissioner, when we get to commissioner. We have a number of people and frequently we have individuals who are moving up from corporal to sergeant, sergeant to inspector, inspector to superintendent. Clearly there are criteria for assessing police officers within the rank and each officer in my mind must have a file. He must have a personnel file which would outline everything we need to know about that officer prior to granting him promotion.

So here it is we have a system in place where we could promote someone all the way from the most junior recruit to Assistant Commissioner of Police, it would appear—or let us say the most senior superintendent, and we are not having any difficulty with that. People are being promoted all the time. I do hear that are some complaints that the promotion process is taking a little while, but promotions are ongoing.

And, Madam President, my point is this: The Police Service Commission has, as part of its mandate, the responsibility to recruit a commissioner and a deputy commissioner, and the question I ask simply from an economic and cost-

effective angle is, what is the most likely pool of people, of individuals, men and women?—because we can get women. We should have, I think, women running for office as well for Police Commissioner. We have had many successful Police Commissioners in the United States. We have to ask, what is the pool of people that the Police Service Commission will draw upon? That pool will have to be the local police service.

If we are saying that are going across the Caribbean or across the Commonwealth, then the pool is wider. But if we are saying that in all likelihood the pool of people we are looking at is the domestic pool of the 7,000-plus officers, who, Madam President, which agency is in the best position to have information on every single one of these officers, information pertaining to the following, information pertaining to leadership skills. Because when you see—I think, Madam President, we are making a big issue out of that which I consider to be simply an automatic procedure.

When we promote an officer from sergeant to inspector, we are doing that, we are saying that this sergeant deserves to be promoted to inspector because he does have leadership skills. He is going to lead maybe a group of policemen. He does have communication skills, he does have management skills. So we are saying that during the day-to-day process of the running of the organization, we are looking at these people and we would have a file on each officer. One person who is not promoted to senior superintendent from superintendent must be given good reason. Someone will say, I think you are a little bit abrasive. You need to be a little more—you are a good policeman, but you need to negotiate a little bit more, more communication skills, and in that way I think every single officer would already have been assessed internally. We know who they are.

What advantage would an external firm, except we are going to pay them tons of money, we are wasting money that we do not have; we are going to pay this firm in Trinidad and Tobago. Look, the Police Service Commissioner is not the same, Madam President as an individual who you will choose to run a big insurance company. He is not the same that you are going to choose to run a manufacturing steel plant. The Police Commissioner is an individual who is going to be as follows—and it is unfortunate that number 3, which existed in the previous version of the legal notice, has been removed because in number 3 it says:

“A candidate for the office of Commissioner of Police or Deputy Commissioner of Police shall meet the following core criteria:

- (a) leadership skills, which enable him to motivate, inspire and engender trust and confidence in the members of Police Service:”

And I will want to add to that—leadership skills which enable him to motivate, inspire and engender trust and confidence in the members of the police service and in the wider community.

**7.20 p.m.**

We in the community must have confidence in that commissioner. Not only must the police service members have confidence in that individual, man or woman, we too must have confidence. The knowledge of that individual is going to be contained in-house. I am of the view that once we recruit a firm to do this and then we send it back to the Police Service Commission, it is equivalent to leaving the village of Cunupia, where I am from, and I want to get to Chaguanas, but I am told, “Do not go to Chaguanas directly through Jerningham Village, go to Chaguanas via first the Valpark intersection, come to Port of Spain, take the traffic

jam, get back onto the side roads and then you get into Chaguanas. There is a short cut. There is an agency that is in charge. I would indicate to the Government that all of us are on board with respect to getting the best commissioner; all of us are on board with respect to conserving cost. But why are we undermining the service commissions and the institutions?

Apart from the violation of the Standing Orders, which are very clear and which, in fact, the Orders should be annulled because they have shown a measure of disrespect for these Orders. This is clear; this cannot be challenged; this is unequivocal. But really, from an efficiency point of view, we need to rethink the strategy. It cannot be as Sen. Creese has always said, doing the same wrong thing over and over and expecting a different result. We have been having difficulties over the last decade and a half perhaps in recruiting. We did not have difficulties before. It has to be that somewhere along the line we began to interfere with a smooth process. Let us correct the errors of our ways.

Madam President, I said that the Parliament involves two Chambers, and in this Chamber there are three benches. I would like for there to be the involvement of the Independent Bench. How can the Independent Bench be involved? There is a view perhaps that the Independent Bench is just here for numbers. “Uh uh”; this Independent Bench is quite aware of its role and responsibility. We are here not to defend the people who voted for us, because no one voted for us. Therefore there are 41 constituencies and we must put ourselves in the position of all the 41 constituencies. In that regard, there is a mechanism by which we could be involved and should be involved in this critical appointment, and that is under Standing Order 93, the Committee on National Security.

It says:

“The Committee on National Security shall have the duty of considering, from time to time, and reporting whenever necessary, on all matters related to the national security policy of Trinidad and Tobago.”

Let me interpret what I mean by “all matters”, not just selective matters, “all matters related to the national security policy of Trinidad and Tobago”. It is the policy we are going to adopt with respect to the appointment of the senior officers in the police service.

So I will close, Madam President, by saying that I would like to see changes in these Orders. I would like to see more powers being given to the Police Service Commission, and I would like in the consultative process for there to be real inclusion in the Parliament. So through that Joint Select Committee on National Security, we would be able to get the views of people who are not politically aligned.

Madam President, in the last Parliament there was that meeting on total policing. That public hearing on total policing, chaired by Independent Sen. Rolph Balgobin, to my mind was one of the more shining moments in the Parliament of Trinidad and Tobago, when we were able to bring the errant police officers to book. I think we need not to disrespect the institution of Parliament, but to build up the institution of Parliament. Not to disrespect the Police Service Commission, build up the Police Service Commission. Once we build the institutions we really will get the best Trinidadians to serve in these organizations.

Madam President, I thank you.

**Sen. Rodger Samuel:** Madam President, I am thankful for the opportunity to be

part of the deliberations today, as we examine the process that has been defined by the Government in their approach to the appointing of a Commissioner of Police as well as a Deputy Commissioner of Police, and the comparison of the legal notices, that of 2009 and those of 2015.

But while we deliberate on this matter—or because it is two notices, these matters—there seems to be from what I have heard thus far more questions than answers. There seems to be more that meets the eye when on one hand the Government seems to be saying it is just a fundamental change from the DPA to the Minister of National Security. When, if we take it at a glance it may appear to be that, but the truth of the matter is that it is more than just a switch. So it is therefore necessary for us to kind of interrogate the legal notices. It is necessary for us to make sure that there is no breach, or appears to be no breach, in the principles applied and the approaches taken by the present Government.

Madam President, the first issue to be raised is that there is a change in the process. Why I say a change in the process, I listened to the hon. Attorney General, I listened to others in the other place that presented, and there seems to be a fundamental misconception, a disagreement. Because the notice changes from the idea of the Director of Personnel Administration, and in Notice 218 of 2015 it says that in 3(a) “the Commission on request of the Minister of National Security”.

I found it strange, because I kept hearing the words “he is just the trigger” or the triggering mechanism, so that this thing could now begin to build momentum. But, Madam President, the approach that the Government is stating that happens is that “the Minister of National Security shall in accordance with section 20A(1)(C) of the Central Tenders Board contract an appropriate local firm”—the Minister:



“The Minister shall contract”—that is what it says. I will read it again:

“The Commission on request of the Minister shall contract...”

So the Minister is the triggering mechanism.

But when I read the report of the strategic subcommittee of the multisector review team that reviewed the Public Service Commission, their approach to who triggers off the mechanism is absolutely different from what the Government is saying. Listen to this on page 27 of the report, and this is the area, “Selection Process of the Police Executive”:

Members noted that the current selection process for the Office of Commissioner of Police and Deputy Commissioners of Police is cumbersome and unduly expensive. Currently the Police Service Commission advises the Director of Personnel Administration to initiate the process.

So it is the Police Service Commission that has the triggering mechanism in them. It is not the DPA that has the triggering mechanism, and now you are replacing the triggering mechanism from the DPA to the Minister of National Security. This report is saying that it is the Police Service Commission and rightly so, because it is the Police Service Commission that has the responsibility to appoint commissioners of police and to trigger off the mechanism so that the whole process can take place. It is the Police Service Commission. They are replacing the DPA.

So really, if they were replacing the responsibility of the DPA and putting it on the shoulders of the Minister of National Security, then it should have said that the PSC advises the Minister of National Security. That is what it should have been saying. They have been saying over and over that the Minister of National

Security is now replacing what that DPA was doing. But the DPA, according to the report and the review, was not the trigger mechanism. It was the Police Service Commission who initiated the process. So what they have come to this Parliament with is something that is not coherent with the report and the review of the subcommittee. [*Desk thumping*] If that is the case, then it is flawed. If that is the case, then something is absolutely wrong and there is a sting in the tail; there is something else that is attempting to be achieved by the Government.

I am surprised, because one of the things I heard in the other place was that we reviewed the review. We reviewed the review and we consulted with this. But the trigger is the Police Service Commission. Why? Because it is their job, it is their responsibility to initiate the process, and not the Minister of National Security and not the DPA. So while they want to turn the Police Service Commission into what I call the “office boy”, who just is a transference of the information, who takes the letter from one place to the next. This review laid all the power on the Police Service Commission. Madam President. Something is wrong with what is being said on the other side. [*Desk thumping*]

So it is not just a shift from the DPA to the Minister of National Security. According to this, the Minister of National Security has now taken over the responsibility, according to this review, of the Police Service Commission, and he now convenes some kind of discussion with the PSC, and it is an entire reversal of this. Something is wrong, and I think this needs to be reviewed again, Mr. Attorney General.

But not only that, the Police Service Commission had been clearly looking at their operations, and the committee set up to review was looking at strengthening

the Police Service Commission, not replacing. As a matter of fact, part of the review said that they wanted to now expand their responsibilities and they also wanted placed under the Police Service Commission the installation of superintendents. They were going to broaden their scope, and they needed the necessary infrastructural mechanisms and support mechanisms to be an effective commission, and to do their jobs so that they can now be all that they were asked to do and commissioned to do.

So the issue was not that they were incapable, and what we are actually saying now is that the Police Service Commission is unaware that they must now appoint a commissioner, and then the Minister of National Security, who is very aware that they have to appoint a commissioner, must now knock on the door of the service commission and say, “Well, you have to appoint a commissioner, go ahead.” That does not make sense to me.

If I know that it is my job to do it, then there must be a mechanism to ensure that I do it. It is not about somebody knocking on my door and saying to trigger off the mechanism to do it, because that is my job, and if I do not do the job then remove me. If I am incapable of doing the job, remove me.

**7.35 p.m.**

But, in the entire review and the report, Madam President, there were recommendations, and one of the things that I thought that these legal notices would have adopted was some of the recommendations. I remember one of the recommendations of the review—and I read it—was that the term in, I think, section 123(a) or (b), or somewhere there, of the Constitution where it says that the Police Commissioner has complete governance of the police service. Absolute.

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

And they wanted that removed because it was causing a problem between national security and the PSC and stuff like that. So, there were quite a number of things that the report and the review recommended that were not adopted in this legal notice. And I would think that if you have a review done, the purpose of the review is to strengthen the operations of the institution, and if you are going to make alterations it will be based upon the review. Why instil a review? Why have recommendations and then you come with a legal notice and you absolutely go contrary to what is recommended by the review and do something different? And then says to me, as a citizen, well, all we are doing is removing the responsibility of the DPA and place it on the shoulders of the Minister of National Security, when that is not what is being done.

So, the subcommittee recommended that the selection process for the offices of Commissioner of Police and Deputy Commissioner of Police should be changed to give the PSC the jurisdiction to select and appoint persons to these positions. That is what they wanted. That is what the reviews recommended, that they have it solely and not with political interference. Because, the Minister of National Security, not the person, but the Minister is political. So, it is very, very strange that the Government has taken this approach and then has said to us, it is just a trivial, minor adjustment, when it is not, Mr. Vice-President. So, I would like to know: what specific recommendations were adapted by those who prepared the legal notices? What were the intentions of those who did this stuff? What did they intend to achieve if they did not adopt the recommendations or some of the recommendations from the review? And how come what was recommended is now altered to mean something absolutely different?

I want to draw your attention with regard to qualifications, because the Police Commissioner acts in the capacity of a permanent secretary. He becomes the finance officer of the police service. So, one of the requirements and recommendations of the review committee was that the Commissioner of Police should have some qualifications in the field of management, human resources and finance, because of the range of his functions., because he is an accounting officer. He is an accounting officer, and the new arrangement is that he must just have a degree in law and a few other things, but there is no training in finance and all these kind of situations. When the recommendation, Mr. Vice-President, was that he must, he shall have some qualifications in those fields, especially in those areas of finance. As a matter of fact, when talking about the Deputy Commissioner of Police in charge of administration, he should have specific qualifications in management consistent with his area of responsibility. It is very important for us to see that.

So, Mr. Vice-President, something is wrong. Something is absolutely wrong. Because, we are told, in no uncertain terms, that this was just a minor alteration and we are wasting time. We are wasting parliamentary time and hours, and we should not be going through all of this kind of madness and stuff like that. But, the Police Service Commission has some kind of dependence on the DPA. As a matter of fact, according to the report, they were looking at the autonomy of the PSC. It says that the PSC presently relies exclusively on the DPA for all resources. Did you hear that? The Police Service Commission relies exclusively on the DPA for all resources. And it is important for us to see that. So, I heard that all we have done is shift the DPA out of the way and we have put the term, Minister of National Security. But, is there not a domino effect? And other things to be

interfered with and affected. How are we going to deal with the fact that they rely exclusively on the DPA for all resources?

And that is why the review was suggesting that we “autonomize” the PSC and make sure they are financially viable, and everything was supposed to be there to give them the kind of powers to do what they were supposed to do. And, it is important for us to see that. Important because the Government said it is just a minor shift. What are you all worrying about? I heard that it was said that the DPA is part of the executive, and he is not. And it cannot be construed based on the fact that they are part of the commission. Come on! It is just like “must” and “shall”, and “will” and “may”, and all these things. But, to the average citizen, he is not. [*Desk thumping*] Let us begin to come down to earth to the average citizen, and if you say to the average citizen in this House that the DPA is part of the executive, they will run with that [*Desk thumping*] and they will say “himself is talking about himself”, and you are shifting from one himself to another himself. You have got to be careful.

**Hon. Al-Rawi:** Did I ask you if the Internet is true? You have to be careful?

**Sen. R. Samuel:** No, do not go there. You have to be careful.

**Hon. Al-Rawi:** You cannot argue two—

**Sen. R. Samuel:** Because you are the Attorney General and you are the man with the legal background, and people lift you up and they hold you in high esteem, and be careful what you say because they will believe you. I mean, I respect you tremendously, and I tremendously hold you in high esteem, and you know that. So, I say be careful as a friend.

**Hon. Senator:** Do not disappoint him, man.

**Sen. R. Samuel:** I am not disappointing the man. Just a friend talking.

### **PROCEDURAL MOTION**

**The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan):** Mr. Vice-President, in accordance with Standing Order 14(5), I beg to move that the Senate continue to sit until the completion of the business at hand.

*Question put and agreed to.*

### **COMMISSIONER OF POLICE AND DEPUTY COMMISSIONER OF POLICE (SELECTION PROCESS) ORDER, 2015 (ANNULMENT OF)**

**Sen. R. Samuel:** Thank you, Mr. Vice-President. So, the issue today will be, is the Police Service Commission equipped and effective enough to perform their duty? That is the question. It is not about a Minister of National Security or anything else. What we are actually saying at this point in time is that the PSC is not quipped to perform and to handle their functions.

With all of this talk that is going on, and if you look at the Joint Select Committees that review the performances of service commissions and stuff like that, you would recognize for quite some time now that the Police Service Commission is lobbying to be an effective commission and they just wanted the kind of mechanism and support infrastructure to make sure that they become an effective commission and they can perform their job.

I would have thought that one of the first things that should have happened is that we strengthen the institution. We sit with the commission and see where the flaws are, where the shortcomings are, and ensure that all of these things are dealt

with so that they can be effective in their performance as a commission. Because, at the end of the day, whether the Minister of National Security is the trigger man or the service commission is the trigger, and whatever, the service commission still has to do what they have to do.

And if they are incompetent based upon what is suggested, then, how can they function beyond that? It is important for us to see that. And it seems as if we are trivializing this, and people feel that, you know, why “alyuh” talking so much, but it is a fact, Mr. Vice-President, that something is wrong and something needs to be corrected in all of this. I am not too sure if the average citizen understands when it says that a candidate for the Commissioner of Police shall be—I mean, in natural language, in street language, the average person does not understand the “shall be”, and I feel that it should be clearly defined. Is it he must be, or he may be? One of those things needs to be dealt with.

And I was quite concerned about the use of the term “national”, and in some instances there is a problem with using the terms “national” and “citizen”. In some foreign countries all citizens are nationals, but all nationals may not be citizens, and those are the kinds of thing that are conflicting in the US Constitution, in the British Constitution, there are different categories of citizenships and nationalities, and all the kinds of things, and I wanted it to be clearly defined as to what it is.

But, Mr. Vice-President, and I mentioned this before, one of the problems that the Police Service Commission clearly defined as a problem was the word “complete” in section 123A(1) of the Constitution, and according to them in the review, it talks about that it is a controversial issue among the Ministry of National Security, the Police Service Commission and the Commissioner of Police, when



you have complete authority that lends and gives problems to those that you are accountable to and you are answerable to. So, it is important for us to see that.

So, I would love, Mr. Vice-President, that the Government in presenting their case—and I would say that they have removed relevant criteria that were recommended by the review committee that sat to look into the functions and the operations of the Police Service Commission. And they have ignored all of that, and they have come to this Parliament saying they want to expedite the process. But, it is one thing to expedite the process, it is another thing to have an effective process. It is one thing to say this is needed and we need to do it now, it is another thing to have it done effectively. It is one thing to get excited and say nobody else did it and we have to do it; it is another thing to say let us go through the process, let us see what is going to make this thing workable and effect it. Let us look at the reviews, let us look at those people that we would have paid and commissioned to deal with all of the reviews, and then see what they said in order to make the Police Service Commission effective, and in so doing, so that they can carry out their functions in the way they should be carried out.

So, the issue of the day is not the DPA, whom they have changed. The issue of the day is not the replacement of the DPA with the Minister of National Security. The issue of the day is that the triggering mechanism for the appointment of the Police Commissioner and the Deputy Police Commissioner is the Police Service Commission. Those are the facts. That is what the review says, that is what the report says, and that was what the current position was. Not the DPA.

The DPA was part of a process that helped the commission do their stuff, but not the one who initiated the stuff. So, now, is the Minister of National

Security. So, the Minister of National Security knocks on the door of the PSC— [*Knocks on desk*]*—*that is what they are saying, “eh, all yuh need to appoint a commissioner”, and then he “backs back”, and he leaves them alone. Well, the Police Service Commission knew that they had to appoint a commissioner, and they have been crying out over and over for the kind of support and help, and mechanisms to do such. It may not have been given to them. We may not have taken them seriously. It may be that we need to take the reviews seriously and strengthen the Police Service Commission.

**7.50 p.m.**

I think that is why Prof. Ramesh Deosaran resigned—because he felt that, you know, they were not getting the kind of support and they were never given the kind of stuff they needed to be an effective commission. They came before joint select committees and they cried out. And still, right now, we are doing the same thing. We are going to go through all the process, if this is not annulled and we are going to go through it because the Government is intent and adamant about the fact that we are not taking “all yuh on now, we done say so and it is going to happen”. That is the impression I get, that this is just an exercise in futility because they have said it is going to happen, so that is it. We are in charge here, you all are wasting your time. I get that impression.

But it will go down in *Hansard* that they were wrong when they said to this nation it is just a minor adjustment. They were wrong when they said that it is the DPA that triggered it off and now it is going to be the Minister of National Security. They were wrong based upon the Police Service Commission review committee’s report of who initiates the whole issue of the appointment of the

commissioner. They were wrong. And if they were wrong in that vein, then they are wrong. And they need to annul this and come back again and do the necessary reviews, and there are things that are necessary to make it right. [*Desk thumping*]

So they were wrong and if they were wrong, I mean, they are big enough to say, you know we did not see that, you know. It is either they are right or the review committee is wrong. Or the review committee is right and they are wrong. I am of the belief that the review committee is right and if the review committee is right, then the Government's approach is wrong. And if the Government's approach is wrong then the legal notices are wrong. And if the legal notices are wrong everything is skewed. We have got to come back again. [*Desk thumping*]  
And probably if you had some consultations somebody would have read this. Somebody would have read the review and say, "aye, you all going wrong; look, the review is saying something different to what you all are saying".

Mr. Vice-President, so there are issues with what they presented. There are issues with the qualifications now because the review committee clearly said that this person must have some kind of training in finance and stuff like, because this Commissioner of Police is the finance officer, accounting officer of the police service, just like a permanent secretary. And without that kind of training then they are in trouble.

So it is important to know that that is not part of the requirement and if that is not part of the requirement, but that was part of the request and the recommendation, then something is wrong. It means that the Government is not taking heed to the recommendations of these review committees, and who have investigated the stuff and they are here just doing what they want to do and to hell

with everybody else. [*Desk thumping*]

Unfortunately, and as a result of that we may find some turmoil along the way as we go along, because I am not going to talk about 15 years and 10 years and whatever and whatever, I am not going to deal with that. But I am concerned with the approach. I am concerned that they have lambasted people on this side and say, “all yuh eh know what all yuh talking bout”. And this is this and the Opposition—and yet the Police Service Commission is not stronger today than it was yesterday when these legal notices were prepared in December. It is not stronger today since the reviews are not stronger today. It is not far more effective, it is not far more efficient because nobody is taking on the recommendations.

So, Mr. Vice-President, I want to recommend that they go and come again. [*Desk thumping*] I want to recommend that they look at this—I am not trivializing anything, you know. Yes we need a Commissioner of Police. But what we really need more in the police service is the ability of our officers to detect crime. That is what we need. And I am telling you, the problem with crime in this country is not the Commissioner of Police. The problem with crime in this country is lack of detection, the inability of police officers to detect crime. That is the real problem. A police commissioner is not going to detect anything. Yes, for the institution it is necessary. But the real issue of crime is really the inability of the police service to detect. The detection rate is a mess. So, are we thinking about the detection rate?

I just got a text that two schoolboys from one of the schools in Laventille was pulled out of a car somewhere around 5 o'clock and shot to death. Just so. Just about 5 o'clock. Are you hearing me? We say, yes the Minister of National Security is passionate. Yes, he is. But his job is not to trigger nothing. It is the

Police Service Commission that must trigger it and we must now give them, empower them. We must now give them what is necessary for them to do their job and not try to come through the back door and make it political—something that is scary, you know.

So, Mr. Vice-President, please, I wish you had it in your powers to tell the Government go and come again. But I know you do not. But I would say it for you, please go and review it. Go and check out the reviews and the reports. Go and see who triggers off what and the mechanisms and the process, because you have the process wrong. Check it out again and come back. We will sit together and talk about it again and after that we will talk about what is the next step and the way forward from there.

I thank you, Mr. Vice-President. [*Desk thumping*]

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Thank you, Mr. Vice-President, for permitting me to join the debate on these Motions at this time. Also, I want to put the gratitude of this side on record for the Parliament staff for preparing this very helpful information brief, [*Desk thumping*] which compares the existing and proposed Orders and also gives us some valuable information on the recruitment of the Police Commissioner in other jurisdictions.

Mr. Vice-President, as you heard earlier there have been seven renewals of the contract of the present acting Commissioner of Police. Acting Commissioner Stephen Williams started his stint in 2012. It is almost four years since he started to act. And today, our colleagues on the other side, the Opposition have finally found their voice, their expertise and all their wishes on the selection process and

the qualifications and criteria for a Commissioner of Police.

After seven terms of renewals, my colleagues on the Opposition Bench, they are no longer hamstrung by their former Attorney General, Anand Ramlogan. They are no longer tied to his view that an acting police commissioner is suited to their purposes. And if it is any group of persons in this country who should be accused of keeping a process that clearly did not work on the books, refusing to change it, those persons sit on the Opposition Bench today. [*Desk thumping*]

Mr. Vice-President, in support of his two Motions, Sen. Mark adopts a few positions, four of them in particular. He talks about the timing of this Order. He talks about interference and political interference with the Police Service Commission. He talks about possible favoritism in the selection of a firm. And he talks about, not possible, but he is certain about political interference in the selection of a police commissioner, going so far, Mr. Vice-President, with scandalous disregard for the three names he called—going so far as to name persons who he says, alleges, would get political benefit from this side in being appointed to the position of Police Commissioner. Complete disregard for three serving officers of the police service, placing on the record of this Senate their names into scandal, in a way that only the UNC knows how to do.

[MADAM PRESIDENT *in the Chair*]

In summary, Madam President, Sen. Mark, for 40 minutes manages to offer the usual fearmongering, bacchanal. And I have said so many times in this Senate, the sanctimonious behaviour of the UNC now in Opposition. And why do I talk about being sanctimonious yet again. It is this UNC that gave this country Resmi Ramnarine. It is this UNC, knowing well that the law required that they appoint

somebody to the SSA, who you would command the counternarcotics intelligence in this country; somebody who would fit into the important national security architecture; somebody who would fit into anti-crime fighting in this country. And this UNC, represented by those six Senators who are sanctimonious today, had absolutely no regard for process, criteria, qualification, selection or anything, come here today as the bearers of expertise, and as I have said so many times before, this country could do without this UNC. [*Desk thumping*]

Let me talk about the four points that Sen. Mark has advanced in support of these Motions. The first is the timing. As I have said, this information brief sets out that the time for placing the Order before the House is after it is published, but nowhere in these Motions, Madam President, nowhere has Sen. Mark advanced a complaint about the process. Nowhere; he has offered in the two Motions. He said that the Order significantly diminishes the role of the Police Service Commission and adds as a sweep-up among other things. And in the second Motion he said that the Order does not effectively capture the critical qualifications required by the candidates for these important offices in the police service among other things.

So Sen. Mark in his Motion does not challenge the process. He does not make a complaint about the abuse about the late laying of the Order. He makes no such allegation or complaint and comes to the Senate today on his first point to talk about the timing of the Order.

The second thing he talks about is interference, and refers to the trigger by the Minister of National Security. Again his Motion advances no complaint about political interference. His Motion said nothing about political interference or a fear of political interference. In the information brief, Madam President, we have some

evidence of how it is done in other jurisdictions. And in case the Opposition missed it, in New Zealand the appointment of a police commissioner by the Governor General is on the recommendation of the Prime Minister. A political entity. And the Opposition advances not one suggestion or case or anything in relation to New Zealand that a political body, the Prime Minister, recommending to the Governor General the appointment of a police commissioner has caused any issue in New Zealand.

**8.05 p.m.**

We are nowhere near New Zealand. All the Minister of National Security is doing is causing the commission to begin the process by engaging the—that is all the Minister of National Security is doing. Then Sen. Mark attacks the process for the selection of the firm. Again, no mention in his Motions of a complaint about that process. But what does the Order say about the selection of the firm—the contracting of the firm? 3(a) is very clear, of Order 218:

“the Commission on request of the Minister of National Security shall, in accordance with section 20A(1)(c) of the Central Tenders Board Act, contract an appropriate local firm...to conduct a recruitment process including inviting applications for the positions;”

What, in that process, Madam President, suggests that there is going to be favouritism, political interference or anything of the sort that Sen. Mark alleges in this House? In fact, at no point in his contribution and at no point in the contribution of any of the Opposition Senators who have spoken, they have told this country, or they have acknowledged that NIPDEC is already engaged in a process like this. NIPDEC has already published—and it is on NIPDEC’s website.



CoP and Deputy CoP (Selection Process)  
Order, 2015 (cont'd)  
Sen. The Hon. C. Rambharat (cont'd)

2016.01.21

They have already published an RFP for a consultancy service to manage the recruitment and selection process for a Commissioner of Police and a Deputy Commissioner of Police for the Trinidad and Tobago Police Service. So this is nothing new, and if NIPDEC was not subject to political interference under the UNC, and for the last four years under the UNC, why would NIPDEC be subject to the political interference of the PNM?

**Mr. Al-Rawi:** It is the same process.

**Sen. The Hon. C. Rambharat:** This is not new, Madam President. This is the process as it exists. This is the process that is in current use—

**Mr. Al-Rawi:** And the DPA still has to do it.

**Sen. The Hon. C. Rambharat:** So where does the fear in the selection of a firm by the Police Service Commission, using the NIPDEC process, arise? Madam President, if there was no fear under the UNC, there is no fear under the PNM because if there is anything, or anybody that this country fears, it fears the United National Congress. [*Desk thumping*]

And this point about interference with the process, Madam President, it ignores two critical elements of this process in both Orders. One, it is the Police Service Commission that contracts the firm to do the shortlist. It is the Police Service Commission, not the Minister of National Security, not the Prime Minister. It is the commission, taking into account all the information that establishes the Order of Merit List. It is not the firm. It is not NIPDEC. It is not the Minister of National Security. It is not the Prime Minister. It is not the PNM. It is the Police Service Commission, taking into account all the information, as the language of the Order that establishes the Order of Merit List. And, Madam President, it is the

commission that selects the candidate for selection to the President in accordance with the procedures set out in section 123 of the Constitution.

So there is no political interference. This is the work of the Police Service Commission as the Constitution intended. The Police Service Commission contracts the firm; the Police Service Commission, on the basis of all the information, creates the Order of Merit List and it is the Police Service Commission putting forward to the President, the name of the candidate for selection.

There was, Madam President, a discussion on consultation, and let me make this point. The first is that once again the sanctimonious UNC comes to the Senate and talks about consultation. Madam President, I will refer to one case. In June, 2015, Justice Ricky Rahim delivered a decision. It involved the Orange Grove Savannah, one of the prized open, green spaces on the East-West Corridor, and that decision of Justice Rahim dealt with the failure of the Minister of Planning and Sustainable Development to consult with the residents and the various interest groups on the East-West Corridor, in particular Tacarigua, before they moved to construct on that open space that has been there forever. And it is this same UNC bench, in the face of a lengthy decision of Justice Rahim condemning the lack of consultation with the community, that comes today in the Senate and talks about consultation.

Well, let me make this point on consultation. These Orders do not interfere with any substantive right or expectation of citizens of this country. These Orders do not curtail any right or expectation. In fact, Madam President, these Orders do two things, in particular. First, these Orders broaden the scope. It broadens the

scope of the recruitment process and secondly, it leaves the independent Police Service Commission with the job of determining the additional criteria for selection. Because we need additional criteria under this Order. [*Desk thumping*]

As it stands now, Madam President, as it stands on the basis of the Order, every national of this country who has a degree, as set out in the Order, and 15 years' experience, will fall to be listed on the shortlist. That could be thousands and thousands of persons. But the Police Service Commission will add to these, two mandatory requirements set out in the Order. They will stipulate the criteria and the Police Service Commission will set the basis for the shortlisting of the candidates for selection.

And why, Madam President—why was it necessary in the Order of 2009 to list core criteria for recruitment? Not one of the Opposition speakers so far has managed to tell this House and this country the reason why that 2009 Order specified core criteria. Let me tell you why. In that 2009 Order, there were two possibilities for appointment. One was that the candidate had a university degree and met the core criteria. But there was another option. A candidate who did not have a university degree, as prescribed, but met the core criteria and had 20 years' experience in law enforcement, could have been considered. And that is the reason why the core criteria was stipulated in the notice. It gave the opportunity for someone who did not meet the requirement of the degree to qualify to be appointed.

In this case, what this Order does, it makes it mandatory, so there is no option two. It makes it mandatory in 2016 where, as a country, we should recognize that a Police Commissioner holding that responsibility which, as other

speakers have said, encompasses management, leadership, finance, law enforcement and a range of skills—a Police Commissioner being appointed in 2016 in this country should, at a minimum, have a degree as prescribed. [*Desk thumping*] That is the reason why there are core criteria in 2009 and there are none in this Order because it is left for the Police Service Commission to do the additional work.

Madam President, there is no doubt that this country requires the appointment of a Police Commissioner and the appointment of Deputy Commissioners of Police. One of the things that stood out with the recent renewal of the contract of Acting Commissioner Stephen Williams was the fact that Acting Commissioner Stephen Williams is the only member of the police executive who is appointed to an executive position. In other words, his substantive position is Deputy Commissioner of Police. He acts as commissioner, but everybody else in the executive holds an acting position and this Order seeks to fix that once and for all. [*Desk thumping*]

Let me remind my colleagues of three appearances before the Joint Select Committee, Group No. 2 of this Parliament. When the Anti-Corruption Investigation Bureau appeared before Group 2 in June 2005, Dr. Mahabir was there, Sen. Hadeed and Mr. Al-Rawi as Sen. Al-Rawi—

**Sen. Hadeed:** 2015.

**Sen. C. Rambharat:** 2015, sorry. And that JSC recognized that there were manpower issues in the police service. There was an issue with competence and capacity in the police service, and issues with the lack of professional staff in the police service. In March 2015, Sen. Mahabir again, Sen. Hadeed and Sen. Al-

Rawi, when the Police Complaints Authority appeared before the JSC and pointed to the number of complaints—2,039 complaints—received about police officers in the period 2010 to 2014, pointed that only 35 per cent of investigations were completed and pointed that only two out of six recommendations made to the police service by the Police Complaints Authority were implemented.

And thirdly, Madam President, in November 2013, in a JSC on which Sen. Small and Sen. Henry sat, the police service appeared and it is at that hearing this country discovered, maybe for the first time, that the sanctioned strength of the police service was 7,715; that the actual number of officers was 6,285 or 81 per cent. But, most importantly, that there were only 5,673 officers available for duty; 612 officers were either on sick leave, vacation leave, study leave, or suspension. This country discovered that the Fraud Squad had only 44 per cent of the officers it required. Organized Crime Narcotics and Firearms Bureau had only 33 per cent, the critical areas in relation to crime; Criminal Gang Intelligence Unit, 37 per cent, and Homicide, 45 per cent.

**Mr. Al-Rawi:** They silent as lambs in those days.

**Sen. C. Rambharat:** Sen. Small and Sen. Henry in this House heard that in total, the anti-crime apparatus of the Trinidad and Tobago Police Service was only up to 57 per cent strength and short of 735 officers. It is important, Madam President, that the Trinidad and Tobago Police Service gets a confirmed Police Commissioner and confirmed Deputy Commissioners of Police.

It is very important that we move quickly as a country to get these positions filled.

**8.20 p.m.**

I close with one point on the issue of a national of this country. In 2010

when Dr. Gibbs was appointed, I was a columnist then and I made this point about his appointment, Dwayne Gibbs previously worked with the Edmonton Police Service. I made the point that in 2010, in the first four months of 2010, January, February, March and April in Trinidad, there were 171 murders in this country. That was five times the amount of murders in Edmonton for the five years which preceded. I made the point that at the time Dwayne Gibbs was appointed, for the five years preceding, there were more than 1,200 unsolved murders in this country. I made the point that no Canadian Police Officer has ever gone to work and found sitting on his desk 1,200 unsolved murders, and I said Dwayne Gibbs would not be able to cut it in Trinidad and Tobago.

It is time that a national of this country be given the opportunity to lead the police service in a confirmed position, moving away from what is obviously a UNC policy hinged to its Attorney General at the time, Anand Ramlogan, that acting is better, and that suits only persons who want to politically interfere in the police service, and this Government has no intention of doing that. [*Desk thumping*]

I say, Madam President, as I close, these two Motions fail. They fail simply because what Sen. Mark stood up and said to this Senate today in no way supports the Motions that he has put on the table.

Thank you very much. [*Desk thumping*]

**Madam President:** Sen. Hadeed.

**Sen. Gerald Hadeed:** Thank you very much, Madam President for allowing me the opportunity to speak here today. The honeymoon is over. There is no honeymoon anymore. It is the shortest honeymoon I have ever come across in my

entire life that any Government in this country has had. I said last week in this august Senate that the people will judge a government by its actions.

Madam President, the actions of every speaker on that side, today, have given us the opportunity to advise the people of this country of their intention and their intentions. Not a single speaker on that side of the Senate has spoken about why they violated the Standing Orders, 21(7), 78 and 83. Not a single one of them. The hon. Attorney General, eloquent as he was, short on substance. When the hon. Minister for Rural Development and Local Government spoke, I listened to him attentively. I wanted to move over there quickly and fix the halo over his head. He spoke like a saint not knowing what was taking place in this country. Like he was oblivious of the state of the country.

I just listened to the Minister of Agriculture, Land and Fisheries. I do not understand where they are living. Are they living in Trinidad and Tobago? They are violating every single opportunity that they get, interfering with the Constitution of the country, but yet they stand up there and pretend that they are doing the best for the country “but yuh eh fooling the country”. I said again, people prefer to change their government than their lifestyle.

Madam President, studies have shown that people want the opportunity to know what is going on and to have a say in it. When the media, when the chairman of the Police Service Commission, when the highly respected independent former chairman of PSC team up to tell them that they are on the wrong course, change your course, what did they do? They ignored every single aspect of what is required of them. That will put them in trouble with the electorate. It will.

Madam President, in an editorial recently on January 19, the *Express* said:

“When the House of Representatives convenes today to address procedural issues relevant to appointing a Commissioner of Police and deputy commissioners, the Government is well advised to withdraw the motions and revert to consulting with the Opposition and the Police Service Commission...before returning to Parliament...”

This they refused to do. Again, it is arrogance. Absolute arrogance.

The fact that we are here today means the Government has not heeded the advice. They do not listen. They refuse to listen. “Stick break in dey ears.”

**Hon. Senator:** No, “is break stick in dey ears”.

**Sen. G. Hadeed:** “Dey break stick in dey ears.” I do not understand. The same *Trinidad Express* editorial on January 19 said:

“...the Government failed to hold discussions with members of the PSC and the Opposition, as well as other important stakeholders, before drafting and publishing the two Orders....”

That has become controversial throughout the land. Every single person in this country wants to know why are you interfering with the Constitution? Coming through the back door to interfere with the Constitution, to hijack the police service. Leave the Police Service Commission alone. [*Desk thumping*] Leave them alone. They know how to do their job.

Madam President, the selection process must be fair. It must be fair. Again, an editorial in the *Express* on January 19 made the point forcefully:

“The office of the commissioner of police is too important a position to be caught in political crossfire. The Commissioner must not only be qualified,



experienced and competent, but he or she must be seen to be above politics and beyond the influence of politicians.

The selection process must also be manifestly fair, ensuring that the population can have confidence in the office-holder.”

What the newspaper is saying in its editorial is that justice must not only be done, it must be seen to be done, and the way you are managing this matter can lead the ordinary citizens to question your fairness, your integrity, your motives and your methods. Fair must be fair to all parties involved especially when you are dealing on behalf of the public, the people of Trinidad and Tobago.

Two questions from the *Express*, Madam President, in its editorial, asked two questions: why did the relevant line Ministers not hold discussions with the PSC on the proposed changes?—simple!—why no talks with the Opposition and with the association representing the police? Why? It is unfair, it is wrong, it is corrupt not to have consultations with the people whose lives they are going to be affecting. It is wrong. The former chairman of the PSC, Dr. Deosaran said—let us go back to the response by the former head of the Police Service Commission. The *Express* editorial of January 19 also put the situation this way:

“We note, too, the comments by ex-chairman of the PSC, Dr. Ramesh Deosaran, that by excluding the PSC, there runs a risk of ‘privatizing’ the selection process.”

The *Express* and Dr. Deosaran made the point, and I am making it here:

“...the Government must get the process right.”

[*Desk thumping*] They must get their process right.

*Newsday* on January, 18 just three days ago, ran what I considered a most

revealing article about the way the Government works, its total disrespect and disregard for the institutions of the democracy on which our country is based. This Government has no respect for the chairman of the Public Service Commission and for the Constitution of our country. No respect for the Constitution of our country, no respect for the Senate. If you disrespect your own institutions, Madam President, you cannot expect to get respect from people. Nobody would respect you. If you disrespect the Office of the President and other offices, and offices that constitute the foundations of our democracy, you cannot even expect respect from anyone. This is what the *Newsday* said on January 18.

“THE CHAIRMAN of the Public Service Commission...—the Constitutional body charged with the appointment of the Police Commissioner—yesterday said the PSC was not consulted by Cabinet prior to last year’s issuing of two legal notices which propose a new process by which the country’s top”—Commissioner—“is to be chosen.”

Imagine, Madam President, not consulting with the Opposition is bad, that is bad enough, but to leave the chairman of the PSC out. Well that is horrendous. I mean, that is wicked. Let me continue with the *Newsday* article of January 18, 2016.

“‘The PSC needs to be consulted and there has been no consultation’, said Dr. Maria Therese Gomes in an interview...”

The *Newsday* article of January 18, 2016 continued:

“‘This is disconcerting and disrespectful in light of the constitutional role which is meant to be played by the PSC as well as the need for teamwork and combined expertise in reforming this process.’ Under section 123 of the

Constitution, the PSC is in charge of appointing a Police Commissioner and Deputy Police Commissioner, as well as making promotions, disciplining, monitoring and appraising officers and reviewing some of the decisions of the country's top cops.”

What this Government is trying to do is to undermine and subvert the Constitution of our country.

**8.35 p.m.**

This, as I said before, is their back door approach. This is tantamount to trying to hijack the police service. Madam President, the Constitution of a country is described as follows:

The fundamental law written or unwritten that establishes the character of a Government by defining the basic principles to which a society must conform by describing the organization of the Government and regulation, distribution and limitations of the functions of the different government departments and by describing the extent and manner of the exercise of its sovereign powers.

The character of a Government, Madam President. What is the character of this PNM Government? This Government has no moral authority to do as it is doing today in this Senate. They have no moral authority whatsoever to do so. They are undermining our Constitution. When a Government undermines its own Constitution, it shows a complete lack of character. All constitutions contain checks and balances which preserve the safety and well-being of all of the citizens of Trinidad and Tobago. We know that our former Prime Minister respected the letter and spirit of our Constitution. Now, we have to be concerned that our

constitutionally elected Government is undermining the Constitution.

Now, I would like to deal a little bit on the report of the strategic subcommittee. Let me refer you to the report of the Strategic Sub-Committee on the Multi-Sectoral Review Team dated June 12, 2012. The report was presented to the Parliament recommending the Police Service Commission as an autonomous body. An autonomous body means having the freedom to govern itself or control its own affairs. That is one of the recommendations that came out of it. This has now been undermined by this Order introduced by this Government. This places our country in a dangerous path. When you disregard the Constitution, you create a breeding ground for anarchy. Anarchy is defined as a state of disorder due to the absence of non-recognition of authority or other controlling systems. Once you undermine the Constitution, the next step is anarchy. We already have some of it now, in Trinidad and Tobago and it is getting worse. I do not want to go into the amount of criminal activity that is taking place daily but we can see it.

Madam President, two wrongs do not make a right. Do you undermine the Constitution? Do not undermine the Constitution. You cannot be judge, jury, legislator and executor at the same time. You have to preserve and protect our people by being a Government of law and not lawlessness. If the Constitution that allows you to become the Government, it is the Constitution that allowed the peaceful transition and handing over of power. Once you undermine and disregard the Constitution, you are digging, not just your own grave, but you are sounding the death knell of democracy in our country. I am saying to the Government, if you do not believe us, believe what the *Newsday* is saying in its article, January 18, 2016.

Madam President, the article goes on to say the:

“Former PSC chairmen have criticised the current process, as has the current chairman. However, there is understood to be a growing concern over the lack of inclusion of the relevant stakeholders in the formulation of a new process.”

Growing concerns. This is the key. More and more people are concerned about the lack of consultation, the lack of communication and the absolute disregard for democracy and our democratic institutions. [*Desk thumping*] We need to review everything that they have brought here. When you take onto yourself and you take powers that you do not have but you believe you have, and you subvert our Constitution, you subvert our institutions, you will cause confrontation with the population.

I do not want to stay longer, Madam President. And in my conclusion, I would just ask the Attorney General for him to review what everybody on this side has said and we thank them on that side for giving us the opportunity to show them where they are wrong and when they are going wrong. [*Desk thumping*] To stand up and bleep what they have been bleeping all afternoon— certain things they have said and certain things resonate with what they consider their obligations are to their manifesto. But if their manifesto is incorrect and it takes away the freedoms of the citizens of Trinidad and Tobago and the institutions, then they must not quote from it.

In conclusion, the importance in a democratic society of a properly functioning police force depends on the appointment of a proper Commissioner of Police: one who can withstand the political pressures that may be exerted on him.

It is very important for the protection of our democracy to have a police force that can be trusted not to abuse its authority.

Madam President, I thank you for giving me the opportunity to speak today and to give some advice to the Government. Thank you very much. [*Desk thumping*]

**Sen. Melissa Ramkissoon:** Madam President, at 8.43 p.m. I thank you for allowing me the opportunity to join in this debate and I believe it is my civic responsibility to share some of my findings after reviewing the Legal Notice 218 which deals with the selection process of the Commissioner of Police and the Deputy Commissioner of Police and Legal Notice 219 which deals with the qualifications and the selection criteria. So my contribution, today, will be both short and effective as it seeks to add to what was already said by my fellow distinguished colleagues before me.

When I first looked at the qualifications and the selection criteria, I initially thought why was the breakdown deleted from the Orders as these are skills that will be considered in any interview or selection process. I then learned, today, during the hon. Attorney General's contribution in this honourable Senate that the Government was adapting a framework approach. When one looks at the framework approach, one will see that this is an approach followed by many disciplines. It is actually a very popular approach for management and analysis of qualitative data. Now, this opens the door and room for interpretation and much uncertainty into the process that is being used.

I then decided to look at the Police Service Regulations which did not deal with the specifics for setting the evaluation criteria or the selection criteria. So,

from my research, I was unable to find data that outlines the criteria which the recruitment process will be following. If such data is available, I urge you to highlight it, such that the information can be shared, and I thank you in advance for sharing this data.

So, Madam President, I would now like to look specifically at notice 218. I would like to touch on the usage of firms as our recruitment agency, and I have supported, in my past contribution in this Ninth Sitting of the Senate, utilizing our wealthiest resource in Trinidad and Tobago, which is our human resource. So I have no issue with us using a local firm to conduct such. If we are somewhat concerned about corruption held by these agencies or these decision-makers, then we need to be or we need to hold them accountable for such, so we need to be brave and be different. We need to not only speak of the corruption but we need to do something about it and we need to hold the persons accountable for what we are accusing them of .

So if we look at the Legal Notice 218, 3(d)(1), it speaks of:

“the Firm shall submit to the Commission—

- (i) the results of its assessment process in the form of a short list of candidates;”

My small concern with this is the shortlist which we are requesting from the firm. Is it that we are asking for two persons, 10 persons, five persons? What is the guide which the firm will be following in terms of creating this shortlist of candidates? I now move to 3(c) which speaks of:

“...candidates...are subjected to the best practice security vetting and recent professional vetting;”

I would like to ask, if it is the hon. Minister or the Attorney General, if Trinidad and Tobago has a personal security guidelines vetting practice. I saw that the Australian Government had one. I did not find one for Trinidad and Tobago. So again, we have this in the legal notice, what are the guidelines to what we would like to see in relation to the Order Paper.

I now move to Legal Notice 219 and it is the qualifications and selection criteria. Section 2(1)(a)(v), the candidate for the Commissioner of Police shall have a degree in any of the following:

- “(i) law;
- (ii) criminal justice;
- (iii) criminology;
- (iv) police service management; or
- (v) any other relevant degree;”

My initial thought when reading this was: can a person holding a project management degree be our Police Commissioner? I further investigated and I saw the Constitution, 122(3), states:

“...persons”—should be—“qualified and experienced in the disciplines of law, finance, sociology or management...”

Is this what we would like for our Police Commissioner to have? If we are satisfied with the persons holding a management degree, a sociology degree or a finance degree, do these programmes hold the merit that we expect or demand to perform the roles and responsibilities to reach the high standards to which the public holds this office that we are debating?

**8.50 p.m.**



So this is something we should probably look at; a closer look. Legal Notice 291 (2)(1)(b) states:

A candidate shall have no less than 15 years' experience of an increasing responsibility in law enforcement as this portfolio shall not only be based on years of service, but competency.

This is where the degree comes in. And this raises another point in relation to the assessment of the performance of the Police Commissioner. I hope, Madam President, there is a scorecard developed for the Police Commissioner, to which he will be assessed on, at least every six months. This should be critical in the continuation of the Police Commissioner.

In the information brief provided by the Parliament, and I heard earlier it is also on the website. It showed that in New Zealand, the system in New Zealand, the Police Commissioner is appointed for a term not exceeding five years. I think this holds merit for study as I believe that performance assessment and a term of appointment of not more than five years is something critical.

I support if the Police Commissioner is a national, and we heard earlier during Sen. Chote's contribution, of the challenges incurred by having an international or a non-national police commissioner, the challenges he faced in Trinidad and Tobago. So appointing a national commissioner gives many within the police service the option to commit or desire to believe that they can achieve such a high rank from hard work, commitment and doing their best. So from doing their best job, they can develop their skills, their leadership and they aspire to be the future Police Commissioner.

Madam President, from my research, I saw in the Bahamas, the Police

Service Commission Regulations, the appointment of the Police Commissioner before he vacates his office, he recommends a successor to the Secretary of the Cabinet. I have not seen this in the regulation or in the Constitution, and I would like to recommend that this be considered, as I see much merit in developing a system of succession planning in the police service.

I did say that my contribution today would be very short and effective. So, I do thank you for allowing me to interject in this debate, to speak about the two legal notices brought forward, and there are many recommendations that we would like to see come out of this. So I thank you. Thank you.

**Sen. Wayne Sturge:** Thank you kindly, [*Desk thumping*] Madam President. I would like first of all to thank the coordinator of the Independent Bench for dealing with the issues with respect to the procedural aspects of this debate, with reference to the Standing Orders and so on. That in essence will enable me to cut down a large portion of what I have to say in this debate. So, without repeating what Sen. Mahabir had said about the abuse of the Standing Orders, the subversion and undermining—or attempted subversion and attempted undermining—of our Constitution, let me move on and simply, I wish to say that I commend to you and the population, what hon. Sen. Mahabir has said on these issues.

Now, in order to understand the seriousness of the business at hand, one cannot divorce oneself from the historical context in which this has arisen, and the chronology of events leading up to where we now find ourselves.

I heard some bits of the chronology from the Leader of Government Business, and if I can take your mind back, Madam President, to 2008—2009 thereabouts or even before, when we changed the procedure, a procedure which

had existed for some time, and which according to the then Prime Minister simply was not working. So, we changed the procedure for the appointment of a Commissioner of Police. There was dialogue. There was consultation and after deep consideration of what the then Government placed before the House, we came up with the procedure as it now stands.

When we employed the procedure, there existed several checks and balances, which we now see are being whittled down and removed entirely. So the new procedure advanced by the Government of the day in 2007—2008, thereabouts, it worked up until they did not get the person they wanted. Do not lose sight of that. The procedure worked until it threw up a local in the person of Stephen Williams who is now the Acting Commissioner of Police. Up until Stephen Williams was nominated as the successful candidate, it worked well for the PNM, but the minute Stephen Williams emerged as the candidate, and clearly he was not the candidate they want, then he was summoned to the Office of the Prime Minister and told, “Well, you do not fit in with our plans”. And right there and then, the Government of the day decided to scuttle its own processes. What was working before Stephen Williams was appointed, working well as they advanced as the panacea for all of the ills, suddenly was convoluted and unworkable and so on, because they did not get the candidate they wanted.

And the candidate they wanted it appears, well, from ignoring the integrity of the process, and the process which threw up the present serving Acting Commissioner of Police, they decided they would appoint one Mr. James Philbert. Now, who is James Philbert?—because I heard talk earlier that we should not engage in fearmongering, and I agree. If there is no basis for doing so, then we ought not to do so.

As I go through my contribution, let me say we do not need to go as far as Uganda, but it is a good example. We do not need to go as far as Zimbabwe, but it is a good example. We do not need to go to Haiti or even the Guyana of the 1970s under Forbes Burnham. Our own history is replete with examples of abuse of power. [*Desk thumping*]

And what we see now is that the Government of the day, a Government which does not wish to listen to anyone, a Government that is as clueless as it is arrogant, is no different pursuing a no different agenda, to a Government of the past. The agenda is total hegemonic control, that is what it is, make no mistakes about that; total hegemonic control.

We are at the point in 2007, where Stephen Williams was called in and told, “Look boss, we not interested in you. You do not fit into our plans”, and James Philbert was appointed. So, who is James Philbert? Is this not the James Philbert who, when between 2001—2002, the period of the hung Parliament, as there were concerns about the legitimacy of the then Government, installed on the basis of the moral and spiritual values? Is this not the same James Philbert who pursued a course of conduct, resulting in scores of persons being charged with voter padding? And every single case has fallen down. Why did he and his officers, since there was evidence or so they would have us believe, why did they not pursue the course?

And we are here now, we are in a dangerous situation and now that we have heard the Leader of Government Business, that they plan to replace the Privy Council with the CCJ, I have concerns. And he sought to give a historical context to say somehow when Panday was not voted in—Mr. Panday—he did not like it

and, therefore, he made an about-turn. But you have to understand the context in which that was done, and when it was done.

The Privy Council, just like certain arrangements under the existing legislation, provides for certain checks and balances. So, whilst all well and good, we can have a local firm, nothing is wrong with that. Whilst it is all well and good to have a local police commissioner, nothing is wrong with that. But why are we limiting ourselves on such an important issue? Why is nationalistic pride more important than national security issues?—because that is what it is.

So you wish to abolish the Privy Council. Let me tell you what, the Privy Council provides just like Penn State University provides. The members of the Privy Council, they are not beholden to any politician here. They do not know anyone. They do not care who you are. They are as objective and as dispassionate as you can get. [*Desk thumping*] It is the one place you can hope to get justice; when you fail in the High Court, you fail in the Court of Appeal, and then you go there to realize that our Court of Appeal is one of the most overturned in the region. The Privy Council is a check and balance, and it is a check and balance by virtue of its objectivity and impartiality and its distance.

So whilst I have no difficulty with a local firm, I want to know: why are we limiting ourselves? I agree with all that Sen. Mahabir has said on the Police Service Commission and so on, but why are we making a change, a change which allowed, which made it possible for a local firm to be selected, but also allowed us to get the best possible firm, with the best criteria, with the best experience and so on? A firm that is outside the reach of political control.

**9.05 p.m.**

That is what Penn State brings, but you want to say, well it is expensive, it might cost us \$8 million; \$8 million is nothing compared to \$90million in Tarouba. [*Desk thumping*] What it will guarantee is objectivity, impartiality, and what it will give us is an institution that operates as a check and balance. An institution with the requisite experience in handling matters of this kind. Do we have a firm like that in Trinidad and Tobago? I say, no.

We did not have one good enough then when Penn State was selected, and I have seen nothing since the selection of Penn State to now to say that we have spawned up, or spawned a new firm that can do what Penn State is doing or better. A new firm that we can guarantee has no political connections whatsoever, and could operate as an effective check and balance. Because like it or not, you might say we are 1.3 million people but the base is much different to the higher-ups, to the highest echelons where 1,000 people or less dictate how things go in the society. We might pretend we are among them, we are not. We have a voice but that is pretty much it.

On the issue of making changes to ensure the appointment of a local person as Commissioner of Police—let me make it clear so that I am not misconstrued—I have absolutely no difficulty with a local being appointed. What I have a difficulty with is when you appoint a local to the exclusion of everyone else on an issue as important as this. Let me tell you why, and I drew reference to the voter padding cases of 2002, this is the same James Philbert who presided over an illegal PNM march in 2007 in Woodford Square when there was a no confidence Motion against PM Manning. [*Desk thumping*]

**Madam President:** Sen. Sturge, if I could just intervene a little bit. There is

freedom of expression in the House, and Members are allowed in exercising freedom of expression to refer to persons who are not Members of the House, but try and do it, please, with restraint, relevant to the issue, and in the national interest. Okay?

**Sen. W. Sturge:** Obligated. Well, in the national interest, and I accept what you say, Madam President. [*Interruption*]

**Madam President:** You have no choice, Sen. Sturge.

**Sen. W. Sturge:** Yes, I know that—I know who is in charge, and I have to deal with it.

So let me not call the name of the person, but what is clear I am dealing with an issue because a Commissioner of Police is a very powerful person. If I can give you my experience, not just with the Commissioner of Police but in the criminal justice system. In my experience I remember going to a police station—I would not tell you the country or the year because then they might know who the commissioner was. Imagine in this country there are persons who can be held with cocaine, with drugs, and it would not reach the courts.

I walked into a police station to see a client, I am not going to even say his race because then somebody might jump up and say something. Race is not the issue in this country, it is class, because he was not the only one. I had it with persons of all races, but what was the central theme was the class. So I walked into a police station and this little boy is cursing the police, no charge. [*Interruption*]

**Madam President:** Sen. Sturge, I am so sorry, but you keep looking to the backbench, could you look—

**Sen. W. Sturge:** I am sorry, yes. I am sorry. He is cursing, “the police cah do

nuten”, and I am expecting Monday morning to show up in court only to be told, well, he was released. Now how does one explain in a society like this that you can have cocaine in your pocket and not face the courts, when all the ordinary ones at ground zero would have to face the courts. When I enquired, well, it was dealt with from the “tippy top”.

So we moved on from—I do not want to call the person’s name, I called his name already, but after him we moved to Gibbs and Ewatski, if I may be permitted to refer to them, the Canadians. What I want to know, up to now we have no valid reason why they were relieved of their jobs, and when I saw it I was amazed, and I am not now amazed. At first when I realized who relieved them of their jobs, I thought well this is just this man has an issue with persons of a certain ilk. I hearkened my mind back to how he dealt with Andrew Jennings, and other persons like that, and I felt maybe it was just that. But now that we know the nature of this man, this vile man, we understand that the problem was not simply xenophobia, it was a cultural thing. Because, you see, whether we like it or not, that person may have felt, well, it is more likely that I can influence a local than these two people, [*Desk thumping*] and that is the danger. That is the danger that we are faced with. So make no mistake about it.

I refer to a certain chosen commissioner in the past simply to underscore and undergird my point about total hegemonic control, because we are in no different a situation now when the legitimacy of this Government hangs in the balance on the basis of certain matters before the court. [*Desk thumping*] So do we want someone who is pliable, because you cannot tell me—you cannot ignore what happened in 2002; you cannot tell me all 60-something persons, or how much ever, charged with voter padding, all of them get off. Now we are faced with a situation



where it is whittled down to the extent, as the youths would say, “Well, we boy going an get it”. It is whittled down to that extent.

I am sorry, Madam President, to keep turning to Sen. Shrikissoon, I just admire the tie. [*Laughter*] When you examine the actual changes in this Order compared to what obtained in the past, one has to wonder why these changes. So now with the change with respect to the candidate, we no longer open ourselves up to having the best possible person to lead the fight against crime. What we want now is a local, although he might not be the best person. We do not want a firm, we want a local firm, and in this country, at the highest echelons of less than 1,000 people, everybody know everybody. And the way things run in this country the Government, and I am not limiting it to this Government, but governments tend to exert a certain influence because they spend the most.

So how are we to be certain that the firm chosen will operate in an impartial manner, objectively, that there is no sort of political influence or interference? How are we to be sure? We cannot be sure, and you know what makes it worse? What makes me totally uncertain about it, why would you remove the requirement of advertising? Because when you are advertising you are putting things up so everybody could see, transparency. So everybody could get a chance to see and everybody could apply, and now you changed the requirement—and you could say what you want about Central Tenders Board because I want to ask you if those down in Tarouba went through the Central Tenders Board. [*Desk thumping*] Ninety million you want to spend down there, I want to find out if they went through Central Tenders Board—[*Interruption*]

**Madam President:** Sen. Sturge, perhaps you are admiring Sen. Small’s tie now, I

do not have on a tie, but could you please stand and look towards this way.

**Sen. W. Sturge:** I am sorry. I am trying to avoid seeing on that side. [*Crosstalk*]  
I wonder if I can be allowed to speak in silence.

So you see the difficulties when you do things in secret, because if you do not advertise that is doing something in secret. Can you give any good explanation as to why you cannot advertise? [*Interruption*]

**Hon. Senator:** Invite who you want.

**Sen. W. Sturge:** Exactly, as my learned friend, Sen. Solomon is saying, it is so that you could invite who you want. You shortlist the firms, one of your boys get the “wuk”, and then you could tell him—well, the shortlist has to be these two persons. To make matters “wus”—not worse because it bad—you have come through the proverbial back door to amend constitutional provisions. You are, in essence, emasculating and enervating the power of the independent commission. That cannot be right, Madam President.

You see, in the context in which we find ourselves with certain things pending concerning legitimacy, all you need is a criminal charge, because a criminal charge creates a perception as it did in 2002. The perception pending the elections in 2002 is, “dem fellas go do anything to steal de elections”. “Dem” fellas subversive, they will subvert the electoral process, the Constitution; look what they are prepared to do. You see, the thing is when you understand how the criminal justice system in Trinidad and Tobago works, you have the perception just in time to sully the names of the other side of your detractors. But in this criminal justice system which takes 10 years to process a matter, “by the time it finish de damage done”—elections over, you get what you want. That cannot be right,

Madam President.

Now, Madam President, just a few points before I wrap up. I see they have also removed the requirement that this person must be a person of integrity, but I understand why now. Before, there was an (f), integrity, having the courage of his convictions, and so on, and so on. Why remove integrity as a requirement? I do not want to call anybody names, but somebody when they were interviewed by Penn State failed a lie detector test—that is integrity. That is integrity, Madam President. So is it that you are removing this requirement of integrity because your preferred choice might have credibility issues? You see, you cannot simply say one thing that you are bringing morality and integrity into public affairs and then you remove it. It is like one rule for others and a different rule for us, and that, Madam President, “won’t wash”, not in a society such as ours.

**9.20 p.m.**

Madam President, I have a concern about why now. You see, when the shoe was on the other foot someone used to say, “Publish your legislative agenda and let us see what it is”. I heard the legislative agenda, and all of a sudden this one jumps the queue in the Government’s, I submit, “vaille-que-vaille” legislative agenda. It is now to the forefront. It jumped over procurement, jumped over whistleblowing. We no longer hear about campaign finance reform, and I wonder why. I guess because they are in Government. But why the rush to bring this forward at this time? Not just the rush, why the stealth? Sen. Mahabir dealt with the issue of stealth—it was stealth. It was the machination of—I do not want to say a Machiavellian type, that is too—

**Madam President:** Unparliamentary.

**Sen. W. Sturge:** It may be, but I have heard it before from the hon. Attorney General right here. So I would say it is a machination of a type that ought not to be perpetrated on a Parliament which makes up, not just an Opposition which might have a political interest, but an Independent Bench. Why are you by stealth breaking the law? That is breaking the law. The procedure is quite clear. You ignore the procedure, and with only a few days to go you finally lay it in the House; that is not right. You probably laid it in the House hoping no one would notice, because most of us here are “green”, in essence. Oh yes, and just like they used to complain about section 34, why bring it Carnival time when everybody jumping and feting, and while they jumping and feting we have a new police commissioner? This is not something that we should tolerate in a society that has respect for the rule of law—yes, tolerate.

There is something I was hoping to hear. They did not say it, but there is another independent institution that operates as a check and balance that I understand they are going to abolish or get rid of—the jury. No protests, they are not denying it. So the Police Commissioner is just a step along the way in the criminal justice system. So we get a Commissioner of Police who might be willing to do your bidding. Imagine someone, a political opponent, is charged. Imagine no more jury trials, and the essence of jury trial is protection. It is a check and balance that is impartial by nature of its random selection. So imagine you cannot face a jury of your peers anymore. Then when they abolish the Privy Council, well “crapaud smoke your pipe”—and that might be unparliamentary.

So you have to look along the way to see that this is not simply one small change by way of a legal notice. It is an important step along the way to get rid of institutions, to emasculate important institutions. In that respect I again adopt what

Sen. Mahabir has said about the commissions. We are going down the road where we may very well reach a point of no return.

But I know that it would be falling on deaf ears to ask them to listen to all who have spoken out against it. Not just us, forget the Opposition; you would not listen to us, we do not expect you to. You probably might not listen to the Independents either, but there is a groundswell of support against this, calling for it to be done the right way. Before it is too late, I ask that you withdraw, reconsider and consult so that we can get it right, [*Desk thumping*] because this is very, very important in the context of not only the political climate in which we find ourselves, but in the context of the socioeconomic conditions we are about to face, when crime is going to rise and when we must have someone who can be well-placed to lead his charges in the fight against crime for the benefit of all of us.

I want to end, but for those who wish to say it is farfetched, let me just end by saying that those who do not want to learn from the lessons of history, they are doomed to repeat them. So if you think all of this is far-fetched, if anyone would suggest that, if anyone would suggest that is fearmongering and the Government would not necessarily engage in political spite and political prosecutions and so on and so on. Ask Basdeo Panday his views on that, when the tribunal of fact—the man who had to find him guilty or not guilty, found himself meeting with a PNM attorney general on the issue.

That is just said to highlight the fact that this is a small country. There are certain things we know. We know what they allow us to know. But by pure chance Basdeo Panday was able to find out what was being kept hidden in the dark. If you can do that with a member of the lower Judiciary, the Magistracy,

meet with him and talk with him about your political opponent who you then turned around and jailed, then what do you expect with a Commissioner of Police who is prepared to do your bidding?

This is not politics; this is real. Go and ask Chief Justice Sharma and go and ask Basdeo Panday about their experiences. Go and ask the ordinary police officer who would charge someone who is well-connected, for having some hashish, or some cocaine or a five ball, or a 10 ball or a 10-piece and is treated differently to every else; never reaches the courts. Go and ask that police officer how he feels when he gets an order from the top. That is the importance.

**Sen. Ameen:** The Prime Minister's driver.

**Sen. W. Sturge:** Oh yes, the Prime Minister's driver; yes Sen. Ameen.

I thank you for the opportunity, Madam President. In closing I once more urge that good sense prevail. Thank you.

**Sen. David Small:** Thank you very much, Madam President. I appreciate the opportunity to join in this debate. Given the way in which this debate has developed, I think it is incumbent upon me to say a few words. My normal approach is that I tend to take sometimes a different view or attack along the lines.

I will not repeat a lot of the points that have been made, and I claim no legal training. So that I am not going to be arguing the legal points. I think a lot of the legal points that have been made are sound; I support the points raised by my colleague, Sen. Chote, and I particularly support the point raised by Sen. Mahabir about the process, about the Standing Orders.

But I often say, and I am on the record of the *Hansard* as saying many times that I am prepared to accept a 70 per cent solution to move forward, because if we

always expect to get a 100 per cent solution we would get nothing done. Nothing I have ever seen in front of me in my short stay here in these hallowed halls has been anywhere near close to perfect. What we have done is worked with what we have, get it to the best condition that we think it could pass and as it goes along we see if there is room for improvement.

Given that this is a Motion that has been brought by the Opposition it perhaps deprives my colleague, the hon. Attorney General, the opportunity to respond, but I would have liked to at least get from the Attorney General the Government's view of what happened with the process, because I believe that something went wrong with the process.

Madam President, I have a view. The Government was elected by the people—I am not getting into the numbers, the numbers are what they are—but I cannot come here and ascribe negative motives to the Government, because if I do that then it means that I will just not listen to the Government. I believe that when we come here we have to try to understand—I do not want to use colloquialism about picking sense from other things but we have to be able to understand we have a national issue.

Madam President, I had a good conversation with the hon. Minister of National Security upstairs and when he was here I think about 3.00a.m. last Saturday morning, and I believe that people do not understand how bad the crime situation is in this country. There is a point I want to make. When the hon. Minister of National Security was here last week, he was responding to an issue that was in the public domain about a spike in particular types of crimes. If there is a spike in particular types of crimes, we have to look at what is the messaging of

what is going on with the protective services.

I am fortunate or unfortunate, depending which way you look at it; I have many friends who are members of the protective services, and they are some of the hardest-working people that I know, dedicated. The job of a policeman in Trinidad and Tobago right now is one of the most dangerous jobs there is, and they go out there every day, the majority of them, and try to get the job done. I honestly believe that. If I do not believe that, then I had better pack my bag and go to some place that I think is safe.

I believe that the majority of police officers are trying their best to get the job done, but here is the challenge. I believe that the lack of the ability to appoint a Commissioner of Police may, rightly or wrongly, have been an indictment of the capability of the available selections—rightly or wrongly. There is a messaging signal for those who are intent or bent on doing wrong things, because there is a line of thinking by many citizens the reason why a commissioner has not been appointed—whether that line of thinking is rational or irrational—is that people have looked at the available selections and have decided that that crop is not a good crop. It is a disservice to the senior officers in the First Division, many of whom I know, who are really hard-working patriots of this country. Because there is a lack of a permanently appointed Commissioner of Police, in my respectful view, a void has been left and speculation has filled that void.

I ask with the greatest of respect, is there a correlation between the boldfaced action of criminals and the void that has been left at the Commissioner of Police level? Is there a correlation? I am not a social scientist, I honestly believe that there is a correlation.



We all want a proper process, but I have had the privilege of being here and the word “consultation” comes up a lot of times, and I have sat in a chair further down the line and heard both sides arguing about consultations, and in all honesty it did not happen and the Bills had to be passed. So I am not saying it is the best process, but I am not sure everybody is in a place to be able to say, “Hey, you should follow the process”, when the chairs were aligned differently or we were seated on a different chair, it did not seem to be so important. So this is where we need to be real about what is in front of us.

Crime is out of control in Trinidad and Tobago as it is now. The police are struggling. The Minister of National Security spoke to leadership, and spoke to the fact that the officers who need to be able to look up and understand it is part of your motivation that there is a Commissioner of Police and I am going to aspire to that office in time, and there is going to be a frequent rotation at that office as people move up, and the opportunities to move up will be there. When you have a situation where the current holder is unsure, it is difficult to plan. You cannot plan on a six-month basis; it is just not possible.

**9.35 p.m.**

And that level of uncertainty has emboldened the criminals in the country. They have become bold. I would always talk about daylight robbery, but it is robbery around the clock now in Trinidad and Tobago.

Madam President, questions have been asked about the Police Service Commission. Perhaps if someone goes into the Police Service Commission offices and understand that they are dealing with over 7,000 files and that just to manage all of the day-to-day things, the Police Service Commission, they probably meet on

average once a week, and in a good month they might meet maybe three or four times. Managing the ongoing leave applications—I mean it is mundane things that they are dealing with.

I have no problem, Madam President, with the proposed arrangements where they outsource the functioning of somebody doing recruitment for them. It is a much cleaner process. It removes their hands out of the system in terms of at least getting somebody to say, this is what we are looking for, work with them, and I have no problem with that process. I believe that that allows the commission to do its work in a cleaner manner because they just do not have the resources to do the job at hand.

Several questions have been asked about why the DPA in the past period has apparently not acted. Well, from where I sit—I stand to be corrected—but the DPA is a civil servant and most civil servants tend to be protective of their hindquarters. And the DPA would not want to step into something like that because he recognizes that it is a political thing. And the typical civil servant will tell you, when they recognize that something is a little political, they need direction. If they do not get direction, they “aint” touching it. I mean, that is not rocket science to anybody here. So let us demystify that. As my colleague, Sen. Henry would say, “let’s debunk that”. So “ah tief yuh word”. [*Laughter*] Let us debunk that.

The simple reason why the DPA has not acted is because it is not in his interest to act because he wants to make sure that he or she—so let us not blame them because that is a situation that has evolved over time by the way in which politicians interact with them. And I am not blaming any group, it is just what it is.

We have to accept that is what it is.

So the process as it is now is a process that, I think, might actually work and I am willing to support it and let us see how it goes. Because I believe that we do not understand the level of crime. Perhaps because I live in what I call an “every man area”—I live in an area, a normal people/person area— I understand the challenges and the issues.

I think sometime I was in a debate here on the Bail Bill or on some Bill and I showed them my bunch of keys with all the various locks I have to get in and get out. Because that is how I live. I live behind double iron doors. Yeah. And it is not because I like iron or steel doors. It is because you have to protect yourself and your family in the evening time and in the night time. You have to. You get in there, you lock up and then you lock inside and then you lock again and then you lock again. If there is an emergency you “eh know what go happen”. But you have to do that and it is not because you want to do it. That is your ongoing life reality, life reality.

As I told people there is a nice exercise track in the area where I live. It is the top—most of the evening times, but nobody is out there after five or six in the evening. Why? Because it is not in the brightest spot. Yeah? And you know, these are things that are a part of life and people take it for granted, but it speaks to the extent to which people’s psyche has been trained and people are telling themselves that perhaps some of these activities have to be curtailed and it is a direct cause because crime is out of control.

Having a Commissioner of Police who could be in there to say, listen, I along with my first division officers and whoever else, we have devised a plan and

this plan is a three-year rolling plan and this is how—work it out. But how it is currently working is just not sustainable. And as far as I am aware, Madam President, the Police Service Commission is accountable to the Parliament, so the issues of what they do and how they do it or—they are accountable to us. So that it is up to us to hold them to account.

So that I hear the other arguments and I respect the other arguments. All I am saying is, allow me to voice, share my own. And my argument is that they are accountable to here. If we do not do our jobs, then we are accountable to other parties outside of this building. Yeah?

Madam President, I go back to the issue raised or dealt with by the hon. Minister of National Security last week where he talked about there is a spike in particular crimes, and then he came to say there is no spike. But here is what. We are 22 days into 2016 and there are almost 30 murders. That is not fun. It is not an easy situation that we live in in this country and the Minister and the people in the police service, I believe, are doing their damndest to bring this under control, but it is really, really, difficult.

I think as other Members mentioned the issue with the “day of total policing” where there was complete and total breakdown of the system, there was obviously some level of collusion at some level and then you listened to the explanation given and you perhaps—Madam President, with respect, I have a logical brain. So when people tell me things that do not ring true, the problem is, without proper evidence you cannot really do anything about it. You just have to accept what they say and let us just try to move on and see how we can try to avoid something like that happening in the future. And if you apply that to what is

happening here, we may not have liked how we have gotten here, but hear what, let us try to see how we can try to prevent it going forward and let us move forward, because going back and forth—

And, Madam President, with respect, the point raised by the learned Senior Counsel on our bench here about recounting these genocidal issues in countries does no favours to the people in that country. It is something we should not do. These things happen in these countries, people have died, innocents have suffered and to trivialize it in the way in which we have is not appropriate. It is not appropriate.

And, Madam President, I have had the benefit of being able to travel to several places and understand that atrocities happen in places, and when these things happen, no one in those places wants people to make light of it, and they use it flippantly. So we have to be careful how we do that because there are sensitivities. We do not know who is watching the channel here. There are sensitivities to what we say.

Madam President, I will not take too much more time. I believe that where we are we need to also look at best practices. Because when I look at several other locales—UK, Australia, New Zealand, Canada, all these—the equivalent of the Police Service Commission appoints the police chief or the police commissioner. But what they have done in most of those countries, they have allowed the police commissioner to be the person to hire all the other police officers. They have devolved—because even in the UK when you go to some of these smaller towns, a smaller town might be 600,000 people. You cannot have one organization managing a police force of 5,000 or 6,000 and trying to appoint, and then vacation

leave. It becomes a logistical nightmare. And then the person best placed to understand—“I need a new divisional commander here to hold on while this one goes on leave”—the person best placed to make that decision is the operational chief, the Commissioner of Police. Perhaps one day we may get there. But this is what is happening in other places. And these are the types of things, what I am saying looking forward, we need to look forward. We need to look at what we have to see how we can improve it going forward.

Madam President, I believe that in the same way that what happens in these other locales, the performance of the police commissioner is, he has to give account of his performance to the respective commission every year and his job depends on it. So we need to really try to look to understand what is our system. We have a Police Service Commission—you are appointed and that is it. You are there until retirement. Is that the best system? I am not sure. Will it deliver the results we want? I am not sure. But perhaps this is something that we probably need to go back, sharpen the pencil and look at what we have in place and understand what do we really need to get us where we want to go. But before we do that, Madam President, we need to know where we want to go.

So I believe where we are, we have a crisis in the country. The Opposition has brought a Motion that there is clear issue with the process. I am not going to trivialize that in any way and I would have loved for the Attorney General to help me to understand the issues when the Standing Orders raised by Sen. Mahabir about it should have been filed and laid in the House when—okay. But I am willing where I am to say, listen, that it may have been an oversight. It may have been a faux pas and it may not have been the proper process, but I am willing to give the Government the benefit of the doubt. Because where I am, I think, the

Government is constrained. The Government is facing a crisis.

Luckily for us, Madam President, oil price went up \$1.25 today so it is like \$29. Now, when I put that in perspective, I am happy that the oil price is \$29. That boggles my mind when I step back. But yesterday morning, I am looking at it, and it is \$26 and something, I am hurting. I am hurting. So, the Government has many things on its plate. I believe that this is something that we need to fix, at least, try to fix. I believe having a Commissioner of Police in place, appropriately qualified through an appropriate process in the shortest possible time is what we need. We need that.

I believe there is no—while it may appear that there are several issues that need to be fixed, I believe that if the Government is willing, there are several things that are on the table that we can fix those things going forward. If the Government gives an undertaking that they are willing to listen to those things and see how we treat with them going forward, I think that works for everyone because, in other words, we keep moving forward rather than going back. Because as a country we need to keep moving forward.

Someone spoke earlier about going and talking about all that happened this year—that is history. We are trying here to make history and we want to make good history. That is what we are trying to do.

So, Madam President, I think that I understand the rationale for the Motion to annul that is brought in front of us, and I think that there is some merit in it. There is no question in my mind that there is merit in it, but I also try to roll up and say, what is the harm? I do not see the perils of a government running away and a Commissioner of Police being directed by the Government. Because, Madam

President, that does a disservice to the people, the first division officers in this country. I cannot wrap my brain around that. That those suggestions, I reject them.

I believe that the people who are holding the senior positions are dedicated officers and they are here to do the job and that suggesting that they will be taking blindly the instructions of politicians. If I want to believe that, if I start to believe that, then there is no point to this discussion. We have to give them the benefit of the doubt. These local officers that they are going to do their best job and they need our support. That is what they need. They need our support. And part of that support is making sure there is a Commissioner of Police in place and there is a clear career path and people understand that when the commissioner reaches the appropriate time for him to move on or based on his performance, there is going to be a clear path moving forward. And we need to get done now, sooner rather than later.

Madam President, with those short comments, I wish to thank you for the opportunity to join in this debate. [*Desk thumping*]

**The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):**

Thank you very much, Madam President. Let me level with you that, of course, I did not intend to speak on this debate at all, but I listened and I think there are two issues that need to be clarified and I am going to be very brief and say what I have to say.

Just to go a little bit into the background, that we are here because the Opposition wishes to annul two Orders—Order 128 of 2015 which deals with process, and Order 219 of 2015 which deals with criteria.



I go directly to the mischief before us. And I think the complaint is the non-operation and the non-functionality of the PSC with regard to the appointment of the Commissioner of Police. And we have talked a lot. The key points about that is that it is an expensive process and if we go to—in fact MP Roodal Moonilal spoke to it in a previous debate, identifying that the cost involved was \$8 million, quite expensive, that it took three years to appoint past Commissioner Gibbs as well. It was an undue, long delay. The process was very, very difficult and convoluted and so on. It required the DPA to act, to get a firm to source and assess candidates. But let us face it, between 2012 and 2016 nothing was done, and at the end of the day we did not have a permanent Commissioner of Police.

Let us face it, crime remains the number one issue in Trinidad and Tobago. All I can tell you, even from the business point of view when you look at the Global Competitive Index and you look at the four things that do not make us competitive internationally, certainly, one of them is crime. And that has been there for a couple of years. It is something that cannot wait. We must deal with it, and one of the major things that we have said here today, and I think all of us agree, that we must appoint a permanent Commissioner of Police.

**9.50 p.m.**

What was done over the last five years? Over the last five years there was a Multi-sector Review Team on the Police Service Commission. That was done, and what was produced was this multisectoral report, and it went to Cabinet and, of course, passed through the LRC, et cetera, and so on. And, of course, this was the very same matter over which Prof. Ramesh Deosaran, in fact, resigned.

This report, and the review was done by a number of persons, independent

persons and persons from both sides as well. Prof. Deosaran was the Chair, and the committee comprised: Sen. Anand Ramlogan, hon. Jack Austin Warner, hon. Carolyn Seepersad-Bachan, hon. Donna Cox; Senior Counsel, Ian Macintyre, Samraj Harripaul, Senior Counsel; Dr. Kerry Sumesar-Rai, Aldwin Daniel and Sgt. Anand Ramesar as well.

And several key recommendations and serious recommendations are in here, but the point about it is, the recommendations require wide reform; very wide reform. And they are there in the review from pages 32 to 34, very wide recommendations, which in all actuality cannot be done immediately. And some of those reforms require—the fact is a two-thirds majority is required, and I think it has been a clear understanding by the Opposition, they have said that they will not support it, so we are going nowhere with this immediately. We certainly cannot use this process at this time to deal with the real issue which is before us at this time. Dr. Roodal Moonilal said it on behalf of the Opposition.

The point about it, there are two issues that need to be clarified at this time. And the first issue concerns the question of the firm, and the whole question of who gets the firm to act. Why use a firm, et cetera. And I want to say that a firm was required to act, but the point about it is during 2009 the DPA actually did nothing. Absolutely nothing was done in the last four years. In the 2007 Order, the 2009 Order, a firm was required. The point is and will remain, that a firm can do the job, and all you need to do is to get the firm going, but the DPA was not able to get the firm going in 2009. What we are saying, under this new recommended process, that all we want is that the Minister of National Security just nudges the PSC to get the firm going through the Central Tenders Board, through the normal process as well, and that in fact can be done. I do not think

there is any mystery or magic to it, it can easily be done. The both processes are almost similar, again, but in this case all we are saying is the Minister of National Security to get the PSC to act to get this firm going.

And the question is, why outsource the firm? As I said before the two-thirds majority cannot work. It cannot, cannot work. The reforms, whilst they are acceptable, it just cannot work at this time. But, usage of the firm has been tested both in 2007 and 2009. And we are saying use a firm because it has the capacity to do what we need to do right now in terms of the human resource capacity as well, and it all can be paid for. So that this, in fact, is an outsourcing that is being done. The firm can, in fact, do the job. The PSC at this time does not have the capacity and it does not have the money as well. And, as I have said before, you need the reforms, and we will not get the required two-thirds to do it. The process is in fact very long, but there are some issues that are before us in terms of crime, the extent of crime, the effect that it is having on Trinidad and Tobago, the effect it is having on business. It is unacceptable to all of us in Trinidad and Tobago and we must act now, and we must act through a process that can be easily facilitated, and that is the process which we are recommending as well.

I want to go to the next matter easily, which is the question of the breach, and that was brought up as well. The purported breach of the Standing Orders, Standing Orders 78 and 83. And Standing Order 78(1)—just give me a minute—

“A Statutory Instrument which is required to be laid in Parliament shall be submitted forthwith to the Clerk for laying on the Table simultaneous with its submission for publication.”

And I want to say that the Executive did in fact send the Order to be

published, and we sent it to Parliament. All of this was done through the CPC. The fact is, it came late. It is not what we wished for, but it came late. The point is it is here. Of course, there is the question of the Statutory Instruments Committee, this is through 83.

“The...Instruments Committee shall consider Statutory Instruments that are subject to the negative resolution of the Senate or the Parliament, as the case may be.”

And this Statutory Instruments Committee was in fact convened, but, of course, we know that it was called off.

It was convened, we attended, but of course it had to be aborted. Reason why it was aborted, and it is because the Motions were filed. And once the Motions are filed, the Statutory Instruments Committee cannot function after the Motions to annul has been filled. So, after the Motions have been filed—so the committee could no longer sit. I looked at the law in the Interpretation Act and it says, in relation to negative resolution procedure section 75(7) of the Interpretation Act, chap 3:01, it states that that :

“The expression ‘subject to negative resolution of Parliament’, when used in relation to any statutory instruments or statutory documents means that those instruments or documents shall, as soon as may be after they are made, but within the prescribed period, be laid before each House of Parliament. Where either House within the prescribed period”—of 40 days—“resolves that any of those instruments or documents shall be annulled, that instrument or document is void as from the date of resolution...”

—and that is 40 days—the point is, this is day 36.

Madam President, I will not detain the House, but the point is, in this case we are within the time, we are in the law, and common sense is required. This is not a matter to be politicized; not a matter to be politicized at all. We want to ask all of the goodly Senators to support this case. This is a highbrid process, yes, but it is something that we can go along until we could come back and look at the recommendations by the PSC. And I will tell you something, we heard a lot of recommendations on the floor today and, of course, we give you the commitment that we will give deep considerations to all of the recommendations that have been made here today, but the process I suggested is one that is workable, and I am asking the support of all of the Senators on this, in the interest of the people of Trinidad and Tobago, in the interest of controlling crime, in the interest of dealing with it with immediacy. This is a serious issue, but we can work through it if we go along with the process as recommended. We have broadened the PSC as well and I think it is a constitutional position.

So, Madam President, I want to thank you for my short intervention, and again I exhort the Members on the other side to support—to defeat, in fact, these two Motions which are before us.

Thank you. [*Desk thumping*]

**Sen. Wade Mark:** Thank you very much. Madam President, I wish to sincerely record my thanks and appreciation for the various contributions made by the Senators, some 15 of them I have recorded, to these Motions that we have brought for discussions and debate in this honourable House.

I want to say that I have listened to my hon. friend, the Attorney General—very, very powerful in his eloquence; very, very short on substance. I want to also

indicate that when I listened to the Leader of Government Business, the hon. Minister of Local Government and Rural Development, of course, he did not get all his facts right on this whole issue of the CCJ.

But, I must let you know, if you do not recall, that there was always a reservation on this matter, and the reservation had to do with ensuring that an institution as old, and that has been with us for so many years, 54 years, the Privy Council, could not be simply swept away merely by a signature. It was made very clear by the UNC, and the then hon. Prime Minister, Basdeo Panday, and the then Attorney General, Ramesh Lawrence Maharaj, that a referendum has to be conducted. And we maintain where we will have to amend the law, amend the Constitution to ensure that there is a referendum.

If the Government wants this PP Government—Opposition; UNC, COP, TOP, NJAC, [*Laughter*] if you would like us to consider the CCJ, we challenge you to amend the Constitution and to bring legislation to deal with the matter of a referendum. [*Desk thumping*] Let us introduce referenda in this country, and that is what will deal with the question of CCJ versus the Privy Council. [*Interruption*]

**Madam President:** Could we just let Sen. Mark do his winding-up in silence. Please! Please!

**Sen. W. Mark:** So, that is the area—Madam President, I just wanted to respond to my dear friend, the Leader of Government Business.

And then when I listened to my friend, the defeated candidate from Mayaro, and who is still vying, working very hard—[*Laughs*] [*Crosstalk*]

**Madam President:** Sen. Mark, you are encouraging it as well—

**Sen. W. Mark:** You need to have some fun, man. [*Laughter*]

**Madam President:** No, no fun.

**Sen. W. Mark:** This place will be boring.

**Madam President:** You just continue, Sen. Mark.

**Sen. W. Mark:** [*Laughs*—if we do not have fun in this place we are going to die from high blood pressure. [*Laughter*]

Anyway, the hon. Member, Sen. The Hon. Clarence Rambharat, did make some remarks about the Motions and indicated that they did not represent the case that I made out. I must tell you that you do not have to put every recital in a resolution or a Motion to be debated, and I think that, for instance, when you used the term “among other things” it would have captured, otherwise you could have about 15 recitals, and even the President would not accept it.

So, I think that you have to understand how the Parliament works in this particular regard. But, anyway, the case has been made, Madam President, on why we need the Government to reconsider this particular matter.

I want to say the Government and many spokesmen, and persons have been talking about the cost and making reference to what people said about the cost of foreign firms in having this exercise executed in the past.

**10.05 p.m.**

But there is no price for democracy. You know that. And democracy demands, Madam President, eternal vigilance. If we are to maintain our freedoms and our rights we must be eternally vigilant. And I want to also indicate, Madam President, an authoritarian dictatorship in any part of this world’s civilization never emerges in one fell swoop. It comes in incremental stages and phases, and before you know it, you have a Papa Doc, a Baby Doc and a Forbes Burnham upon your

hands. [*Desk thumping*] You have that.

So, Madam President, I want to remind my colleagues, all of them who are saying they are in charge, and I hear my honourable friend, Leader of Government Business, they got a mandate. The Attorney General: “we got a mandate”. They went to the polls and they got a mandate from the people. Nobody is arguing that, Madam President. That is why they are there and we are here. But I want to remind this honourable Senate that democracy is not about merely the rule of the majority. The powers of majority, of the majority, I want to tell you, the powers are restricted by law. And law as we know is the last refuge of the people against arbitrary rule and erosion.

If we do not have laws that we can refer to, to protect the rights of the people then what you will have is a social revolution. That is the alternative to arbitrary rule and getting laws to challenge arbitrary rule. You will have an uprising; you will have a revolution; you will have a rebellion in the country. And I want to remind the goodly Senator, my colleague from the Ministry of Agriculture, Land and Fisheries, that when I made reference to names of individuals it was not coming from my lips. You go to the *Newsday*, Friday, January 15, 2016, and in this article they are predicting the names of persons who—[*Crosstalk*] no, no, I am telling you, I said, “Town is saying that”.

**Sen. Rambharat:** Did you quote it?

**Sen. W. Mark:** No, no. I do not want to have a conversation with you. [*Laughter*] All right, let me talk to the President, please. I do not want to have no conversation with Clarence Rambharat.

Madam President, let me address my thoughts to you. So, Madam President,



I would not detain you, but if you read the article carefully, Vincel Edwards, the chap who I referred to, was called by the *Newsday*, Nalinee Seelal—maybe on the 14th because this was on the 15th, and asked whether he was one of the persons who might become the next Commissioner of Police. And he laughed it off and he said he was in another meeting.

So people have been speculating who might be the next Commissioner of Police. Look there are names here:

“...Snr. Supt. Glen Hackshaw, Inspectors Wendell Lucas, Richard Taylor...Anand Ramesar...”

These names are here in this article. And what Ramesar said and I quote, Madam President:

““There is a rumour that the person to be Commissioner of Police may have already been selected.””

This is here.

**Sen. Gopee-Scoon:** Speculation.

**Sen. W. Mark:** Whether it is speculation or not it is in the public domain to the point that *Newsday* printed it. So the point I am making, Madam President, this is a matter that is in the public domain. So do not say that, I said this and I said that, it is here in the *Newsday*.

So, Madam President, I want to also indicate, the Government has a golden opportunity to withdraw these notices. These notices have breached our Standing Orders in spite of the weak case being made by the hon. Minister, advised by the Attorney General who is also under some pressure these days I see. And I saw him come into this Senate, very emotional, some time ago. But anyway, I will deal

with that on another occasion. I will have to come to your party next time. I see you had a big party in south.

**Hon. Al-Rawi:** You are welcome.

**Madam President:** Sen. Mark. [*Laughter*]

**Sen. W. Mark:** Sorry Ma'am, sorry Ma'am, sorry Ma'am. But, Madam President, Legal Notices 218 and 219 portend extreme dangers for our nation and I believe that we have to take these notices very seriously. And in spite of the efforts being made by my friends on the other side, I know that it is a party line. The whip has been issued and they have to perform. So I understand that. I am a party man so I understand that.

But, Madam President, we cannot escape from the reality that the Government has breached the Standing Orders. They have breached Standing Order 21(7), they have breached Standing Order 78 and they have breached Standing Order 83. They have disrespected the Parliament, and the Executive must take full responsibility for that contempt that you all have demonstrated.

Madam President, may I indicate something to you. I do not know if it coincidentally, if it is by accident, I do not know, I would leave that to the people to judge. Madam President, the Senate had its last sitting on December 08. It was a Tuesday. We resumed on January 15, 2016. The Attorney General in his statement on whistleblower legislation told this country that these legal notices will be completed no later than November 30, 2015. He has not denied it, because it is in black and white.

**Hon. Al-Rawi:** True.

**Sen. W. Mark:** So I have to assume that they were completed.

Madam President, is it strange that we had our last sitting on December 08 and the Government proceeded to issue the same legal notices on Monday, December 14? Then they came back when we were out on Friday, January 15, it was published on December 16. And you know, Madam President, what I am saying is that we got a mere 11 days' notice. And if we were not vigilant the 40-day period would have passed. So when the hon. Minister said, we are within the law, yes, we are within the law. But it is we in the Opposition that have brought you here. [*Desk thumping*] If we did not bring you here, you would not have been here. And I am saying, win, lose or draw, the population is wiser. They have heard all the arguments from the Government side, from the Independent Bench and from the other place, Madam President. And we are doing our duty to alert and to raise awareness in the country, so that everybody will know what is taking place, whether they support you or they do not, that is not the issue. We have to alert the nation to what is taking place in our country.

There are patterns of behaviour that are emerging, that are quite troubling and worrying. This Government has been in office for four months and a few days, and, Madam President, a pattern of behaviour is emerging that is both troubling and worrying. You know, the Chinese have a saying, those who can see before others, is brilliant. And those who can know before others, is a genius. We must all become brilliant geniuses. We must be able to forecast where this Government is heading before we arrive at that station. And, Madam President, we are seeing all the signs of where this Government is heading. We are seeing it in their attitude, their behaviour. They just dismiss the Opposition. Poor you all, we are in charge. And then you come with a weak argument today telling us that this thing requires a two-thirds majority. Those are the changes that the PSC

recommended in the multisectorial report and you could not bring it to us because we say we are not supporting and you quoted somebody from the other place.

Madam President, if you come with reasonable proposals to the Opposition, I am not the Leader of the Opposition, he is right. I am not the political leader, I am just a member. But I am sure if you come with reasonable proposals to strengthen democracy, to strengthen the institutions of our country, which reasonable Opposition will reject that? I mean to say, tell me, which reasonable Opposition will reject that. And we are reasonable people. We will listen and we will discuss.

But, Madam President, I wanted to ask the Attorney General, why he did not listen to the PSC multisectorial team where the PSC recommended, as my colleague said, the hon. Sen. Rodger Samuel, that they did not want a firm to be involved in this transaction. They wanted to do it on their own. That is what the evidence is showing. It is a recommendation coming out in 2012. Listen, the reason why you are there and we are here is because the people have spoken. So we are saying, and we respect democracy. People have a right to be wrong. So they were fooled and “mamaguyed and ting” and they voted for you. So you are now there.

So, Madam President, what I am saying is that why did the Government not come to the Parliament and indicate to the Parliament, listen here is a draft notice, these are some of the provisions, we want to have a joint select committee of both Houses? Let us work this thing out together because we do not want to politicize the police service and we do not want to get the Police Commissioner entangled in this web of controversy. They could have done that. They did not do it. They

chose not to do it. They chose to ignore the advice proffered by the Police Service Commission. And they came with this firm.

I want to remind you, Madam President, remember I told you about brilliant geniuses. There was a brilliant genius by the name of Martin Niemöller. That fella lived in Germany when the fascists were emerging in Germany. And when Hitler got power, legally, not by a coup, not by a revolution, but legally through elections, he came to power and a lot of these people, catholics, trade unionists, communists, socialists, they all supported—many of them supported and voted for this man. And when he got into power, Madam President, within two years it was mayhem and chaos in Germany.

**10.20 p.m.**

He left this with us, and I want all the Members to remember this one because it needs repeating. If you have never heard it before, Sen. Lester Henry, I want you to remember this one. Madam President, hear what Martin Niemöller said to the world. He said:

First they came for the Jews, and I did not speak out because I was not a Jew.

Then they came for the trade unionists, and I did not speak out because I was not a trade unionist.

Then they came for the communists and I did not speak out because I was not a communist.

Then they came for me and there was no one left to speak out for me.

Madam President, these are signs of the times, and we have to be in a position to indicate from the outset that these measures that are before us today, they reek of

certain signals and dangers that we need to get the Government to understand and appreciate. [*Desk thumping*] And that is what we are doing today.

Madam President, may I remind you and this honourable Senate that the Police Service Commission is a constitutional body, and it is not an agent of the PNM or an agent of the State. It is a constitutional body and, therefore, the move by the Government to outsource a function of this body is a direct assault and attack on the constitutional authority of the commission. [*Desk thumping*].

Madam President, I want to remind the hon. Attorney General and the others who spoke, they make us believe that the reason why they have left out a number of provisions that were contained in the 2009 Order is because the Police Service Commission will deal with those things; you “doh” need to put all those things in black and white. So the Police Service Commission will deal with all those matters that they have mentioned. I want to remind hon. Members, under section 123(2) of the Constitution, it reads and I quote:

“The Police Service Commission shall nominate persons for appointment to the offices specified in subsection (1)(a) and section 22(1) of the Police Service Act...in accordance with the criteria and procedure prescribed by Order of the President, subject to negative resolution...”

So what section 123(2) is saying is that the Police Service Commission is circumscribed by the criteria and procedure prescribed by Order of the President subject to the negative resolution of Parliament."

So here it is, we are debating two legal notices that we are seeking to have this honourable Senate annul. If we are defeated, the Government would have its

way and those two Legal Notices, 218 and 219, would become law. They are already law, but it will just go on for a long time before it is taken down by the courts of Trinidad and Tobago.

But the point I wish to emphasize is that the Police Service Commission has to be guided by the criteria and procedure prescribed by the President, by resolution, through negative resolution, and that is what we are dealing with here. So why is the Attorney General, and others, trying to tell this honourable Senate that the reason why they have left out X, Y and Z is because these are matters that the Police Service Commission can deal with at any rate? Well then, if that is so, why have we removed these criteria from the arrangement?

**Hon. Al-Rawi:** Would you give way?

**Sen. W. Mark:** Not at this time. [*Interruption*]

**Hon. Al-Rawi:** So you do not want the answer?

**Sen. W. Mark:** No, you will have a press conference. [*Laughter*] You tell the people when you meet them, Madam President.

**Sen. Ameen:** “Is only one man does talk on that side, yuh know.”

**Sen. W. Mark:** Madam President, the question here is: what is the ulterior motive of the Government in seeking to foist on the people such a poisonous cocktail of measures which are aimed at subverting and undermining and hijacking both the Police Service Commission, the Police Commissioner’s office and ultimately our democracy?

Madam President, I wish to remind you, if you are not aware, this Government introduced in the 2016 budget two instruments that are going to undermine the police service. One is called the Police Management Agency and

the other one is called the Police Inspectorate. These are measures that they have introduced, and when you read in accordance with the answer we got to a question that I raised in this Parliament about two weeks ago, we are told by the Minister of Finance that one of the functions of the Police Management Agency is to plan police operations, and a coldness visited my body.

**Hon. Al-Rawi:** Like section 34?

**Sen. W. Mark:** No, no, no, no, no. I would have liked to get some fire in your party. [*Laughter*] Madam President, could you imagine? You are now telling the country in a statement to the Parliament that one of the functions of the Police Management Agency is to plan police operations, or words to that effect. And, Madam President, I ask myself, I thought that is a function of the Police Commissioner and his executive. They are there to plan operations and that is an independent function. Where is the executive involved in these things? I raise that, in passing, so you can understand what is at stake in this particular matter:

Madam President, we have to understand that the Government has taken a decision to remove several provisions that would have given the Police Service Commission a certain amount of flexibility in determining the selection, appointment and nomination of a police commissioner. If I may revert again to the Constitution, I go to section 123A, and it tells you the power of a Commissioner of Police. A Commissioner of Police is a serious office holder in our country. It says that:

“...the Commissioner of Police shall have the complete power to manage the Police Service and is required to ensure that the human, financial and material resources available to the Service are used in an



efficient and effective manner.”

Madam President, the Police Commissioner is responsible for managing efficiently, human, financial and material resources, and he is responsible for the promotion and the confirmation of appointment for all those officers under his command. He can transfer any police officer and he can remove from office and exercise disciplinary control over police officers. Madam President, this is the extent of the power of a Police Commissioner and we cannot play politics. *[Interruption]* We are playing with fire.

That is why you have forced us to come here. Madam President, we did not want to come here! We did not want to bring Motions to annul anything. If the Government had seen it necessary to take us into their confidence and hold discussions—Prime Minister, Leader of the Opposition—and talk about, for instance, these notices before they were published, we would not have been here.

**Hon. Member:** Yeah, right.

**Sen. W. Mark:** The population would not have known about this debate, because once we had a proper input and the interest of the people would have been served, we would have supported it just as we supported the new Police Service Act, the Police Complaints Authority and the amendment to the Constitution that brought these changes into being. But the Government chose not to take that route. They chose a different course of action.

So, Madam President, what have they done? They have deleted the provision to allow a contracting firm, and I have not heard the Attorney General explain to us as yet, and maybe at his press conference he will do so. He will explain to the population why the firm is not allowed to advertise for invitations of

applications.

**Hon. Member:** They can do it now.

**Sen. W. Mark:** No, why that has been—no, I am asking. Listen, I am not prepared to take cheap talk and cheap words from anyone. We are dealing with a police service, Madam President, and we do not want the Attorney General to say across the floor—howling across the floor—that, you know what, advertisements will take place. Why are you telling me this? “I doh want tuh know this.” It is not me. When I speak, I am a vessel—not empty, but full, [*Laughter*] and I speak as a channel—[*Interruption*]

**Hon. Al-Rawi:** Full of what?

**Sen. W. Mark:** Right, well you should know “becor you were in de fete”. [*Laughter*]

**Madam President:** Sen. Mark. Sen. Mark—

**Sen. W. Mark:** Sorry, Madam President.

**Madam President:** Could we just listen to Sen. Mark in silence, please? Continue, Sen. Mark.

**Sen. W. Mark:** So, Madam President, all I am asking is, why are we leaving out this provision that was contained in the 2009 Order? And, you know, we have heard from so many Members from the other side thus far and no one has been able to tell us in a convincing way. They have raised some very weak and vacuous arguments, but nothing that is of substance and strong in content to convince the population that this Government, you know, does not have ulterior motives.

So I ask, Madam President, through you, to this honourable Senate, how are applications or applicants going to apply for the job of Commissioner of Police?

We do not know.

**10.35 p.m.**

Madam President, they have removed the provision to allow the Police Service Commission to consult and discuss the results of the shortlisting process with the firm. That is another matter that we have not heard much about, but it is in the provision of the 2009 legal notice where after they would have received the shortlisting of the firm after the interviews, the Police Service Commission can now entertain this particular firm and allow the firm to provide it with the necessary results and the process that it would have employed in this particular regard.

So in the event that they slipped—that is the firm—there is a second process that will take place, Madam President. So that if something illegal comes up, or if something comes up that is unethical, or something immoral about a candidate, then the Police Service Commission could tell that candidate you have to withdraw. You are not fit to become a Commissioner of Police.

There was a lie detector test as I indicated, Madam President, that was conducted, that resulted in a high-ranking police officer being dismissed virtually and, therefore, did not qualify to become a Commissioner of Police. Do you know who discovered that? The Police Service Commission, not the firm. It was a second check taking place by the Police Service Commission after receiving from this particular firm the outcome of the assessment that was responsible. So, Madam President, we have made our case, we think that for instance this matter is very serious, we believe that the Government should reconsider its position.

I would like, Madam President, in closing, to call on the Government to

withdraw these notices, to bring a draft notice, or a draft notice of the nature that would allow us to debate and discuss at the level of a joint select committee, so we can help the Government fashion proper legal notices that would be transparent, that would be accountable, that would fair, that would have equity housed in that particular notice. So that at the end of the day the citizenry, through its representatives in Parliament, would be able to come forward with two notices that they will be proud of.

Madam President, at this particular point in time the notices that are before us do not give us comfort and, therefore, I beg to move that these notices be annulled by this honourable Senate.

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

*Question put.*

**Sen. Mark:** I want a division on that, Madam President.

*The Senate divided:* Ayes 8 Noes 21

AYES

Mark, W.

Hadeed, G.

Solomon, D.

Ameen, Miss K.

Sturge, W.

Samuel, R.

Chote SC, Miss S.

Creese, S.

CoP and Deputy CoP (Selection Process)  
Order, 2015 (cont'd)  
Sen. Mark (cont'd)

2016.01.21

## NOES

Khan, Hon. F.

Gopee-Scoon, Hon. P.

Baptiste-Primus, Hon. J.

Rambharat, Hon. C.

Lester, Dr. H.

Moses, Hon. D.

Singh, A.

Ali, H.

Budhu, Miss S.

Coppin, W. M.

Cummings, F.

De Freitas, N.

Baksh, Miss A.

Dookie, D.

Stewart, Miss N.

Roach, HRI

Small, D.

Shrikissoon, T.

Ramkissoon, Miss M.

Raffoul, Miss J.

Richards, P.

CoP and Deputy CoP (Selection Process)  
Order, 2015 (cont'd)  
Sen. Mark (cont'd)

2016.01.21

*Dr. Dhanayshar Mahabir abstained.*

*Motion negatived.*

**Madam President:** Sen. Mark, Motion No. 2.

**Commissioner of Police and Deputy Commissioner of Police (Qualification  
and Selection Criteria) Order, 2015**

**Sen. Wade Mark:** Madam President, I beg to move the following Motion:

*Whereas* it is provided by section 123(2) of the Constitution that the Commissioner of Police and Deputy Commissioner of Police be selected by criteria and procedure prescribed by Order of the President subject to negative resolution of Parliament;

*And Whereas* the appointment of the Commissioner of Police and Deputy Commissioner of Police (Qualification and Selection Criteria) Order, 2015 was published on December 16, 2015 by Legal Notice 219;

*And Whereas* the Order does not effectively capture the critical qualifications required by the candidates for these important offices in the Police Service among other things;

*Be It Resolved* that the appointment of the Commissioner of Police and Deputy Commissioner of Police (Qualification and Selection Criteria) Order, 2015 be annulled.

I beg to move.

**Sen. Solomon:** I want to second the Motion.

*Question put.*

**Sen. Mark:** Division.

CoP and Deputy CoP  
(Qualification and Selection Criteria)  
Order, 2015 (cont'd)  
Sen. Mark (cont'd)

*The Senate divided:* Ayes 8 Noes 20

AYES

Mark, W.

Hadeed, G.

Solomon, D.

Ameen, Miss K.

Sturge, W.

Samuel, R.

Chote SC, Miss S.

Creese, S.

NOES

Khan, Hon. F.

Gopee-Scoon, Hon. P.

Baptiste-Primus, Hon. J.

Rambharat, Hon. C.

Lester, Dr. H.

Moses, Hon. D.

Singh, A.

Ali, H.

Budhu, Miss S.

Coppin, W.

Cummings, F.

Adjournment

2016.01.21

De Freitas, N.

Baksh, Miss A.

Dookie, D.

Stewart, Miss N.

Roach, H.R.I.

Small, D.

Shrikissoon, T.

Raffoul, Miss J.

Richards, P.

*The following Senators abstained:* Dr. Dhanayshar Mahabir and Miss Melissa Ramkissoon.

*Motion negatived.*

### **ADJOURNMENT**

**The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that this Senate do now adjourn to Monday, January 25, 2016 at 1.30 p.m. During that sitting, we will be debating the Finance (Variation of Appropriation) (Financial Year, 2015) Bill, 2016.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 10.49 p.m.*