

FIRST PRINT

**POLICE SERVICE (MANAGEMENT) AMENDMENT
BILL 1993**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are:

- (a) to alter the role and composition of the Police Board; and
- (b) to alter the employment arrangements of the Commissioner of Police; and
- (c) to transfer the Inspector General from the Police Service to the Ministry for Police.

Role of Police Board

Under the Bill, the Commissioner of Police will have clear responsibility for the management and control of the Police Service. Accordingly, the Police Board will no longer have general statutory responsibility in connection with the improvement of the Police Service and its efficiency and performance. The Board will retain its principal statutory role in the following areas:

- (a) the employment of Police Service senior executive officers and the appointment and promotion of other commissioned police officers;
- (b) the supervision and promotion of career development and training for all members of the Police Service;
- (c) the making of reports or recommendations to the Minister on any matter referred to it by the Minister.

The Board will also be able to make its own reports or recommendations to the Minister arising from the exercise of its functions (including reports or recommendations concerning the integrity of members of the Police Service). The Board will retain its power to enter police premises, inspect police documents and question police officers.

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Composition of Police Board

At present the Police Board consists of a full-time or part-time Chairperson, the Commissioner and between 1 and 3 part-time members. Under the Bill, the Board will consist of a part-time Chairperson, the Commissioner, the Director-General of the Ministry for Police and between 2 and 4 part-time members. However, the Commissioner and the Director-General will not be voting members of the Board and may be excluded from particular meetings of the Board. The existing members of the Board are not continued in office, but are eligible for re-appointment.

Employment arrangements of Commissioner of Police

Generally speaking, the employment of the Commissioner of Police will be placed on the same basis as that of other chief executive officers of government agencies. In particular:

- (a) **Appointment.** The Commissioner will continue to be appointed by the Governor on the recommendation of the Minister. The Minister will continue to be required to obtain and have regard to a recommendation from the Police Board of the applicant with the greatest merit. However, the Board will not be able to limit advertising for the position to police officers, but will be able to dispense with advertising the position if it decides to recommend the re-appointment of the Commissioner. In addition, the Parliamentary Joint Committee on the ICAC will be given an opportunity to report to the Minister on the integrity of the person proposed to be appointed (or re-appointed).
- (b) **Term of appointment.** All future appointments to the office of Commissioner will be for a maximum (renewable) term of 5 years, as is the case with other chief executive officers. At present a police officer who is appointed as Commissioner is appointed until the age of 65 years.
- (c) **Contract of employment and remuneration.** The Commissioner (as is the case with other chief executive officers) will be required to enter into a contract of employment with the Minister for the term of appointment that will deal with the duties of the position, the performance criteria and division of the remuneration package between salary and employment benefits. The amount of the remuneration package will be set by the Statutory and Other Offices Remuneration Tribunal.
- (d) **Removal from office.** At present the Commissioner may only be removed from office by the Governor for misbehaviour or incompetence if both Houses of Parliament agree. The Governor may also remove the Commissioner from office for engaging in other unauthorised paid employment, unauthorised absence from work, becoming bankrupt or becoming mentally ill. Under the Bill (as is the case with other chief executive officers) the Commissioner may be removed from office at any time for any reason on the recommendation of the Minister. However, the Commissioner may not be removed from office unless the Chairperson of the Police Board concurs in the recommendation of the Minister.
- (e) **Existing Commissioner.** The Commissioner holding office on the commencement of the proposed Act will be appointed by that Act as Commissioner for a period of 5 years. Although Commissioner Lauer was appointed until the age of 65 years, if another Commissioner is holding office on that commencement and was appointed for a limited term or would reach 65 years before that 5 year period, the statutory appointment would be limited to

Police Service (Management) Amendment 1993

the balance of the term or until the age of 65 years. A Commissioner continued in office by this provision will still be required to enter into a contract of employment with the Minister and will be subject to the new employment and removal provisions during that statutory term of office and on any proposed re-appointment.

Transfer of Inspector General

The position of Inspector General is to be transferred from the Police Service to the Ministry for Police. The incumbent officer is to be continued in office for the balance of his term of office. The Inspector General will retain the power to enter police premises, inspect police documents and question police officers.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be proclaimed.

Clause 3 gives effect to Schedule 1 which contains the amendments to the Police Service Act 1990 described above.

Clause 4 gives effect to Schedule 2 which contains consequential amendments to other Acts and repeals an Act validating the original appointment of the Inspector General.

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**POLICE SERVICE (MANAGEMENT) AMENDMENT
BILL 1993**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Police Service Act 1990 No. 47
4. Consequential amendment and repeal of other Acts

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT 1990
SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS

**POLICE SERVICE (MANAGEMENT) AMENDMENT
BILL 1993**

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to amend the Police Service Act 1990 with respect to the Police Board and the Commissioner of Police; and for other purposes.

Police Service (Management) Amendment 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Police Service (Management) Amendment Act 1993.

5 Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Police Service Act 1990 No. 47

3. The Police Service Act 1990 is amended as set out in Schedule 1.

10 Consequential amendment and repeal of other Acts

4. (1) The Acts specified in Schedule 2 are amended as set out in that Schedule.

(2) The Police Service (Inspector General) Act 1991 (1991 No. 62) is repealed.

**15 SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990**

(Sec. 3)

(1) Parts 3 and 4:

Omit the Parts, insert instead:

**20 PART 3—THE POLICE BOARD OF NEW SOUTH
WALES**

Constitution of the Board

15. (1) There is constituted by this Act the Police Board of New South Wales.

25 (2) The Police Board is a body corporate.

(3) The Police Board is a statutory body representing the Crown.

Board subject to Ministerial control

30 16. The Police Board is, in the exercise of its functions, subject to the control and direction of the Minister.

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

Composition and procedure of the Board

17. (1) The Police Board is to consist of:

- (a) the Chairperson of the Police Board; and 5
- (b) the Commissioner; and
- (c) the Director-General of the Ministry for Police; and
- (d) at least 2 but not more than 4 part-time members appointed by the Governor.

(2) Although the Commissioner and the Director-General are members of the Police Board, they do not have a vote at any meeting of the Board. They each have a right to be heard at any meeting of the Police Board but both or either of them may be excluded from any meeting if all the voting members of the Board so direct. 10
15

(3) Schedule 1 has effect with respect to the members and procedure of the Police Board.

Appointment of Chairperson of the Board

18. (1) The Governor may appoint a person as Chairperson of the Police Board. 20

(2) The appointment of the Chairperson is to be on a part-time basis.

(3) Neither the Commissioner nor the Director-General of the Ministry for Police is eligible to be appointed as Chairperson of the Police Board. 25

Functions of the Board

19. The Police Board has the following functions:

- (a) the functions conferred on it by this Act in connection with the employment of members of the Police Service Senior Executive Service and other members of the Police Service; 30
- (b) the supervision and promotion of career development and training for all members of the Police Service;
- (c) the making of reports or recommendations to the Minister arising from the exercise of its functions (including reports or recommendations concerning the integrity of members of the Police Service); 35
- (d) the making of reports or recommendations to the Minister on any matter referred to it by the Minister;

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

(e) such other functions as are conferred or imposed on it by or under this or any other Act.

5

Staff of the Board

20. (1) The staff of the Police Board is to be employed under Part 2 of the Public Sector Management Act 1988.

10

(2) The Police Board may, with the approval of the Minister, arrange for the use of the services of any staff (by secondment or otherwise) or facilities of the Police Service, a government department or a public authority.

Delegation by the Board

15

21. The Police Board may delegate to a person of a class authorised by the Minister any of the functions of the Police Board, other than this power of delegation.

Powers of entry and inspection

20

22. (1) An authorised person may, for the purpose of exercising the Police Board's functions, enter any police premises at any time.

(2) The authorised person may, for that purpose, call for and inspect all or any police records, documents, files or other matter, whether of the same or a different kind or nature, on those premises, and question and seek information from any member of the Police Service.

25

(3) A member of the Police Service who fails to comply with any requirement made of the member under this section or to give all assistance and co-operation to the authorised person is guilty of an offence.

30

Maximum penalty: 20 penalty units or 6 months imprisonment, or both.

(4) An authorised person is to be issued with a certificate of authority under this section signed by the Chairperson of the Board.

35

(5) In this section, "authorised person" means a member of the Police Board, or other person, authorised by the Chairperson of the Police Board for the purposes of this section.

Police Service (Management) Amendment 1993

**SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—continued**

Annual report of the Board

23. (1) As soon as practicable after 30 June (but on or before 31 December) in each year, the Police Board is required to prepare and forward to the Minister a report on its work and activities for the 12 months ending on 30 June in that year. 5

(2) The Minister is required to lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report. 10

PART 4—THE COMMISSIONER OF POLICE

Appointment of Commissioner

24. (1) The Commissioner of Police is to be appointed by the Governor on the recommendation of the Minister. 15

(2) It does not matter whether the person appointed is or is not already a member of the Police Service.

(3) Before a person is appointed:

(a) the Police Board is required to invite applications for appointment to the office from any persons wishing to apply; and 20

(b) the Minister is required to obtain and have regard to the recommendation of the Police Board in relation to the appointment; and

(c) the Minister is required to obtain and have regard to an official report (referred to in section 3 (3)) on the previous employment and conduct of any police officer proposed to be appointed or (if the person proposed to be appointed is not a police officer) to a similar report; and 25
30

(d) the Minister is required to request and have regard to a report under this section by the Parliamentary Joint Committee known as the Committee on the Independent Commission Against Corruption of its examination of the integrity of the person proposed to be appointed. 35

(4) In deciding to make a recommendation in relation to an appointment under this section, the Police Board must, from among the applicants eligible for appointment, select the

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

applicant who has, in the opinion of the Police Board, the greatest merit.

5 (5) However, the Police Board is not required to invite applications for appointment if it decides to recommend the re-appointment of the person holding office as Commissioner.

10 (6) The Parliamentary Joint Committee has 14 days after it receives a request under subsection (3) (d) to report to the Minister and has a further 30 days (after the initial 14 days) to do so if it notifies the Minister within that 14 days that it requires more time to consider the matter. A request is to be in writing and may be withdrawn by the Minister at any time.

15 (7) Section 70 (Confidentiality) of the Independent Commission Against Corruption Act 1988 applies in respect of the exercise of the Parliamentary Joint Committee's functions relating to the appointment of a Commissioner in the same way as it applies in respect of the exercise of the Committee's functions relating to the appointment of the Commissioner for the Independent Commission Against Corruption.

Acting Commissioner

25 25. (1) The Minister may appoint a member of the Police Service recommended by the Police Board to act as Commissioner during the illness or absence of the Commissioner or during any vacancy in the office of Commissioner.

30 (2) Any such member, while acting as Commissioner, has all the functions of the Commissioner.

(3) The Minister may, at any time, terminate the appointment of any such member to act as Commissioner.

Term appointment of Commissioner

35 26. Subject to this Act, the Commissioner holds office for such period (not exceeding 5 years) as is specified in the Commissioner's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

Employment and remuneration of Commissioner

27. (1) The employment of the Commissioner is to be governed by a contract of employment between the Commissioner and the Minister. 5

(2) Sections 41–47, 59 and 61 (relating to employment and remuneration of executive officers) apply to the Commissioner in the same way as they apply to an executive officer. However, in the application of those sections a reference to the Police Board is to be read as a reference to the Minister. 10

Removal of Commissioner

28. (1) The Governor may remove the Commissioner from office on the recommendation of the Minister made with the concurrence in writing of the Chairperson of the Police Board. 15

(2) The Governor, on the recommendation of the Minister made with the concurrence in writing of the Chairperson of the Police Board: 20

(a) may declare the person so removed from office as Commissioner to be an unattached officer in the service of the Crown; and

(b) may revoke any such declaration.

(3) While such a declaration remains in force, the person concerned is entitled to monetary remuneration and employment benefits as if the person had not been removed from office. 25

(4) If:

(a) the Commissioner is removed from office and such a declaration is not made; or 30

(b) a declaration that is made is revoked,

the person concerned ceases to be employed in the service of the Crown, unless appointed to another position in the service of the Crown. 35

(5) A declaration under this section, unless sooner revoked, is revoked on the date on which the term of office of the person as Commissioner would have expired.

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

5 (6) A person removed from office as Commissioner (except for misbehaviour after due inquiry) is entitled to the same compensation under section 53 as an executive officer removed from office as referred to in that section.

(7) The Commissioner may be removed from office only under this section.

Retirement of Commissioner

10 29. (1) The Commissioner may retire on or after reaching 55 years of age.

(2) The Commissioner is not required to retire on reaching 65 years of age.

15 (3) Nothing in this section affects the provisions of an Act relating to any superannuation scheme of which the Commissioner is a member. However, the Commissioner may not be retired under any such Act without the Commissioner's consent.

Vacation of office of Commissioner

20 30. (1) The office of Commissioner becomes vacant if the Commissioner:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) is removed from office under section 28; or
- 25 (d) retires from office under this or any other Act; or
- (e) resigns his or her office in writing addressed to the Minister.

(2) The retirement or resignation of a Commissioner does not take effect until:

- 30 (a) the Minister accepts the retirement or resignation; or
- (b) the Commissioner has given the Minister at least 4 weeks' notice in writing of the day on which the Commissioner intends to retire or resign and the Commissioner is not on that day under official
- 35 investigation for misbehaviour.

(3) The Commissioner is under official investigation for misbehaviour if the Minister so certifies with the concurrence in writing of the Chairperson of the Police Board.

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

Delegation by Commissioner

31. The Commissioner may delegate to another member of the Police Service any of the functions conferred or imposed on the Commissioner by or under this or any other Act, other than this power of delegation.

5

(2) Schedule 1 (**Provisions relating to the members and procedure of the Police Board**):

(a) Clause 1, definition of “part-time member”:

10

Omit “other than the Commissioner or the Chairperson”, insert instead “other than the Chairperson, Commissioner or Director-General of the Ministry for Police”.

(b) After the definition of “part-time member” in clause 1, insert:

15

“**voting member**” means a member other than the Commissioner or the Director-General of the Ministry for Police.

(c) At the end of clause 3, insert:

20

(2) Subject to this Schedule, the Chairperson holds office for such period (not exceeding 5 years) as is specified in the Chairperson’s instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

(d) From clause 4, omit “A part-time Chairperson”, insert instead “The Chairperson” and omit “the part-time Chairperson”, insert instead “the Chairperson”.

25

(e) Omit clause 5 (1) (f) and (i).

(f) From clause 5 (1) (h), omit “a part-time”, insert instead “the” and omit “part-time” where secondly and thirdly occurring.

30

(g) From clause 7 (2), omit “a part-time Chairperson” wherever occurring, insert instead “the Chairperson”.

(h) After clause 10, insert:

Notice of meetings

10A. All members are to be given notice of meetings of the Board by the Chairperson or by an officer of the Board authorised by the Chairperson.

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Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

- (i) Omit clause 11, insert instead:

Quorum

5 11. A quorum for a meeting of the Board is a majority of the voting members of the Board for the time being.

- (j) Omit clause 12, insert instead:

Presiding member

10 12. (1) The Chairperson or, in the absence of the Chairperson, a part-time member elected to chair the meeting by the voting members present is to preside at a meeting of the Board.

15 (2) The person presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

- (k) Clause 13:

After “votes cast”, insert “by voting members”.

- (l) Clause 14:

20 From clause 14 (1), omit “those members”, insert instead “such of those members as are voting members”.

- (3) Schedule 2 (**Police Service Senior Executive Positions**):

Omit “Inspector General”.

- (4) Schedule 4 (**Savings, transitional and other provisions**):

25 (a) At the end of clause 2 (1) of Part 1 (Savings and transitional regulations), insert:

the Police Service (Management) Amendment Act 1993.

- (b) Omit clause 14 (Application of s. 26).

- (c) At the end of the Schedule, insert:

30 **PART 6—PROVISIONS CONSEQUENT ON
ENACTMENT OF POLICE SERVICE
(MANAGEMENT) AMENDMENT ACT 1993**

Definitions

20. In this Part:

35 “**amending Act**” means the Police Service (Management) Amendment Act 1993;

“**appointed day**” means the day appointed for the commencement of Schedule 1 (1) to the amending Act.

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

Police Board

21. (1) The Police Board constituted under section 15 (as in force immediately before the substitution of that section by the amending Act) is a continuation of, and the same legal entity as, the Police Board constituted under that section (as so substituted). 5

(2) A person who, immediately before the appointed day, held office as a member of the Police Board ceases to hold that office on the appointed day. The person is eligible (if otherwise qualified) to be re-appointed, but is not entitled to any remuneration or compensation for so ceasing to hold that office. 10

(3) A delegation by the Police Board made under section 21 and in force immediately before the substitution of that section by the amending Act is taken to be a delegation under that section (as so substituted), but only to the extent that the Police Board continues to have the relevant function. 15

Commissioner of Police 20

22. (1) The person holding office as Commissioner immediately before the appointed day is taken to have been appointed as Commissioner on the appointed day for a period of 5 years or until the person reaches 65 years of age, whichever is the shorter period. However, if that person was appointed for a term, the person is taken to have been appointed for the balance of that term. 25

(2) For the avoidance of doubt, the provisions of the amending Act (including the provisions relating to the Commissioner's contract of employment and the Commissioner's removal from office) apply to the Commissioner during the period of appointment under this clause. 30

(3) Until the Commissioner enters into a contract of employment, the Commissioner is entitled to remuneration at the rate payable to the Commissioner immediately before the appointed day. 35

(4) A delegation by the Commissioner made under section 31 and in force immediately before the substitution of that section by the amending Act is taken to be a delegation under that section (as so substituted). 40

*Police Service (Management) Amendment 1993***SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—continued****Inspector General**

5 23. (1) The person holding office as Inspector General in
the Police Service immediately before the day appointed for
the commencement of Schedule 1 (3) to the amending Act is
taken to have been appointed, on that day, to the position of
Inspector General in the Public Service (being a position in
10 the Ministry for Police) for the balance of the term of office
as Inspector General in the Police Service.

 (2) The contract of employment of that person under
section 41 is taken, on that day and pending a new contract
of employment, to be a contract of employment entered into
15 under section 42G of the Public Sector Management Act
1988.

 (3) That person, or any other person who holds office as
Inspector General, may exercise the functions of an
authorised person under section 22 (Powers of entry and
inspection) for the purposes of the Inspector General's
20 functions.

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER
ACTS**

(Sec. 4 (1))

Public Sector Management Act 1988 No. 33

25 Schedule 3B (Senior Executive Positions):

At the beginning of the positions relating to the Ministry for
Police, insert the following position:

Inspector General

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

30 (1) Section 24A (Definitions):

After "1988" in the definition of "chief executive office
holder", insert "or the Commissioner of Police".

Police Service (Management) Amendment 1993

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER
ACTS—*continued*

(2) Schedule 1 (**Public offices**):

Omit “Commissioner of Police.”.

(3) Schedule 3 (**Public offices**):

Omit from Part 2 “Chairperson of the Police Board.”.

5

LEGISLATIVE COUNCIL

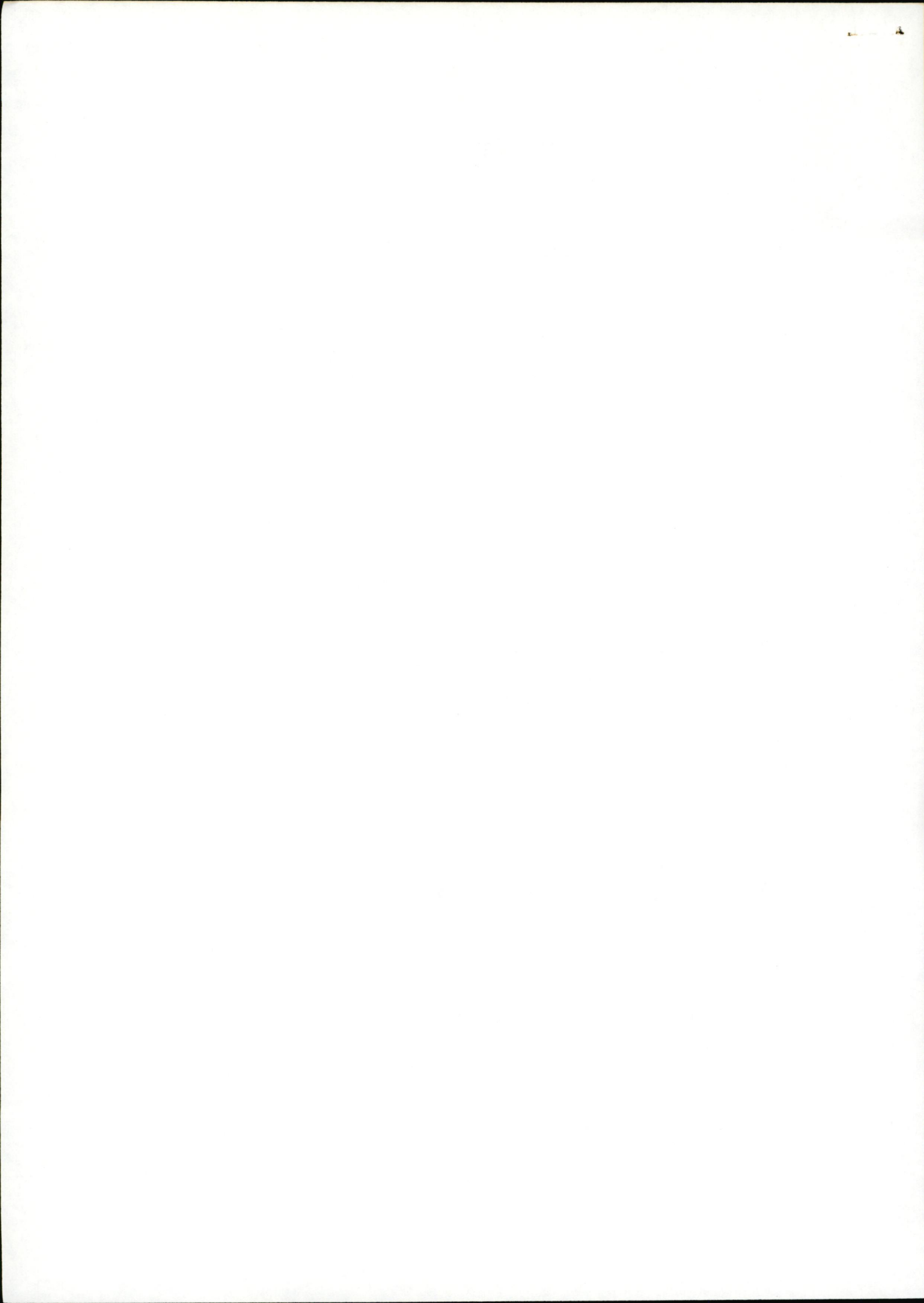
SECOND READING SPEECH

POLICE SERVICE (MANAGEMENT) AMENDMENT
BILL, 1993

MR PRESIDENT,

I NOW MOVE THAT THIS BILL BE READ A SECOND TIME. I SEEK LEAVE TO HAVE THE SECOND READING SPEECH INCORPORATED IN HANSARD.

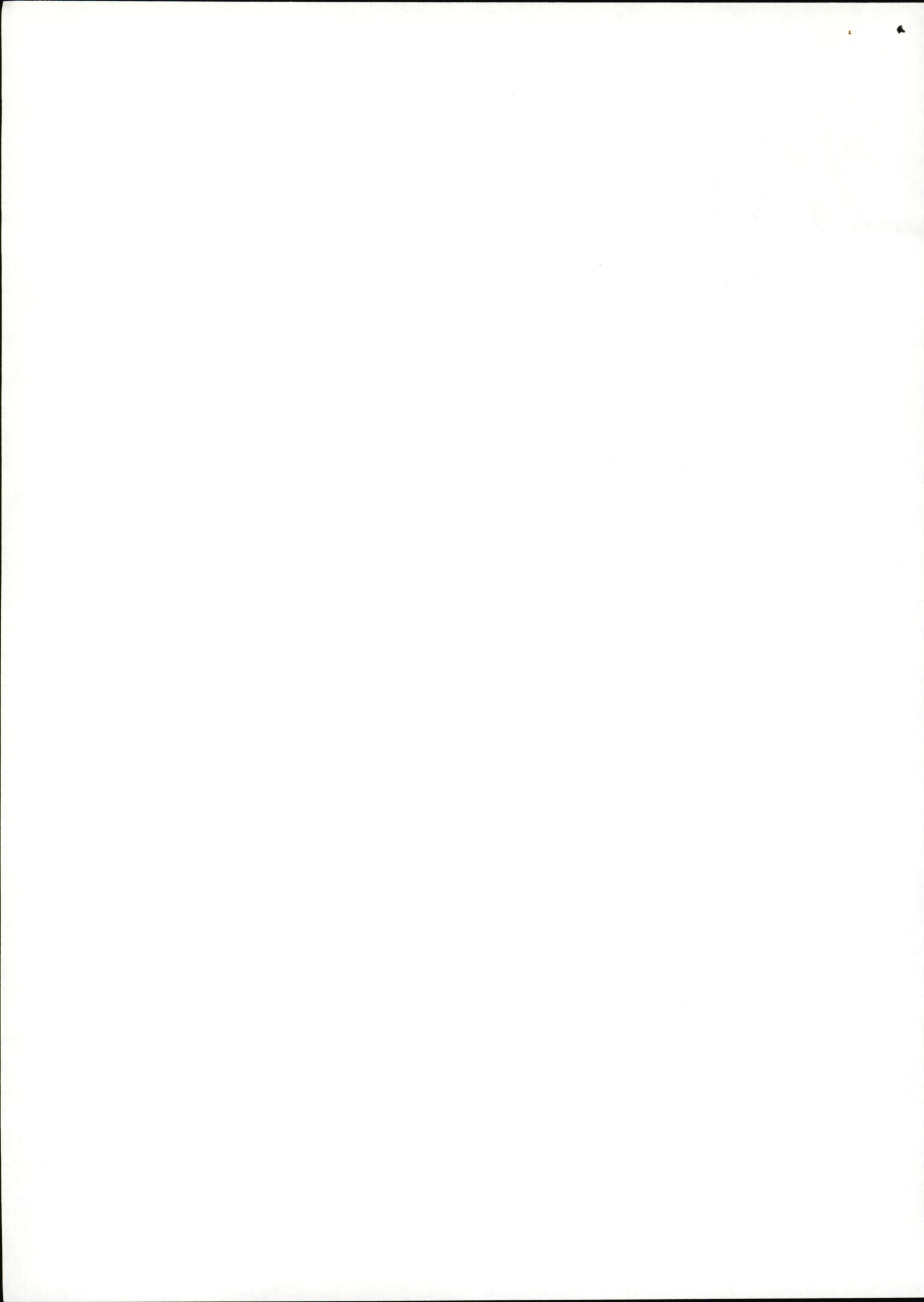
THIS IMPORTANT BILL IS THE START OF THE MOST SIGNIFICANT REFORM OF POLICING IN THIS STATE SINCE THE CHANGES ARISING OUT OF THE LUSHER REPORT AND THE REGIONALISATION OF THE POLICE SERVICE.



RECENT EVENTS MAKE IT ESSENTIAL THAT THE GOVERNMENT ACT TO ENSURE THAT PUBLIC CONFIDENCE IN OUR POLICE IS MAINTAINED AND THAT THE EXCELLENT OPERATIONAL PERFORMANCE OF THE POLICE SERVICE IS SUPPORTED BY A MODERN MANAGEMENT STRUCTURE.

TO ACHIEVE THIS, A MAJOR RE-ARRANGEMENT OF RESPONSIBILITIES WITHIN THE POLICE PORTFOLIO MUST OCCUR.

DECISIVE CHANGES MUST BE MADE TO THE WAY THE POLICE SERVICE IS MANAGED. THE EVENTS CHRONICLED IN THE REPORT OF THE PARLIAMENTARY SELECT COMMITTEE UPON

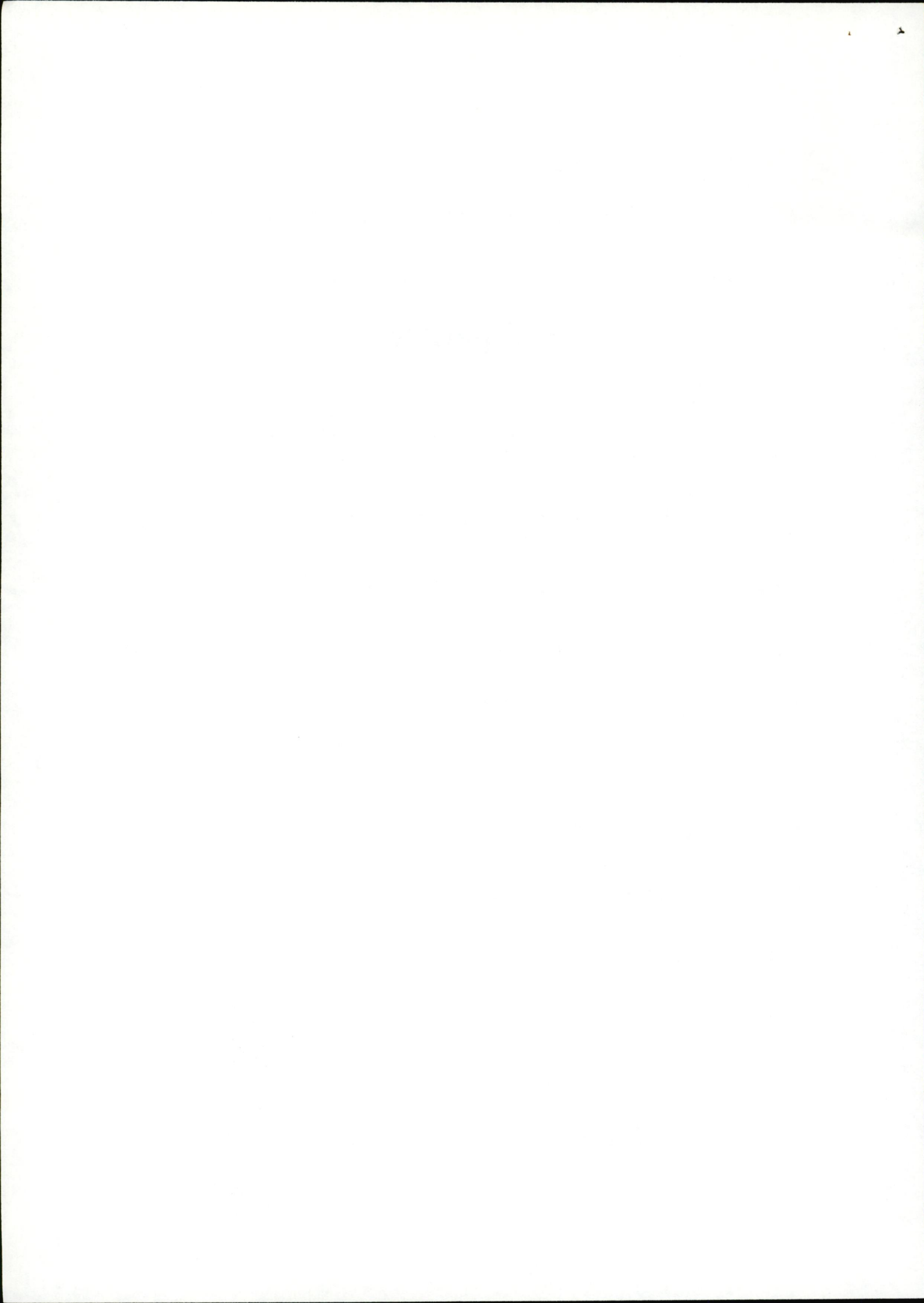


POLICE ADMINISTRATION MAKE IT CLEAR THAT THE NEED FOR CHANGE IS OVERWHELMING AND URGENT.

MR PRESIDENT,

ON 18 NOVEMBER 1992, I SUBMITTED THE GOVERNMENT'S PROPOSALS NOW DETAILED IN THIS BILL TO THE JOINT COMMITTEE UPON POLICE ADMINISTRATION.

ON 4 MARCH 1993, THE PREMIER ANNOUNCED THE GOVERNMENT'S PROPOSALS FOR REFORM. THE REFORM PROPOSALS HAVE BEEN GREETED WITH ALMOST UNIVERSAL SUPPORT. IN PARTICULAR, I WELCOME THE SUPPORT THAT HAS BEEN EXPRESSED BY THE MEMBERS OF

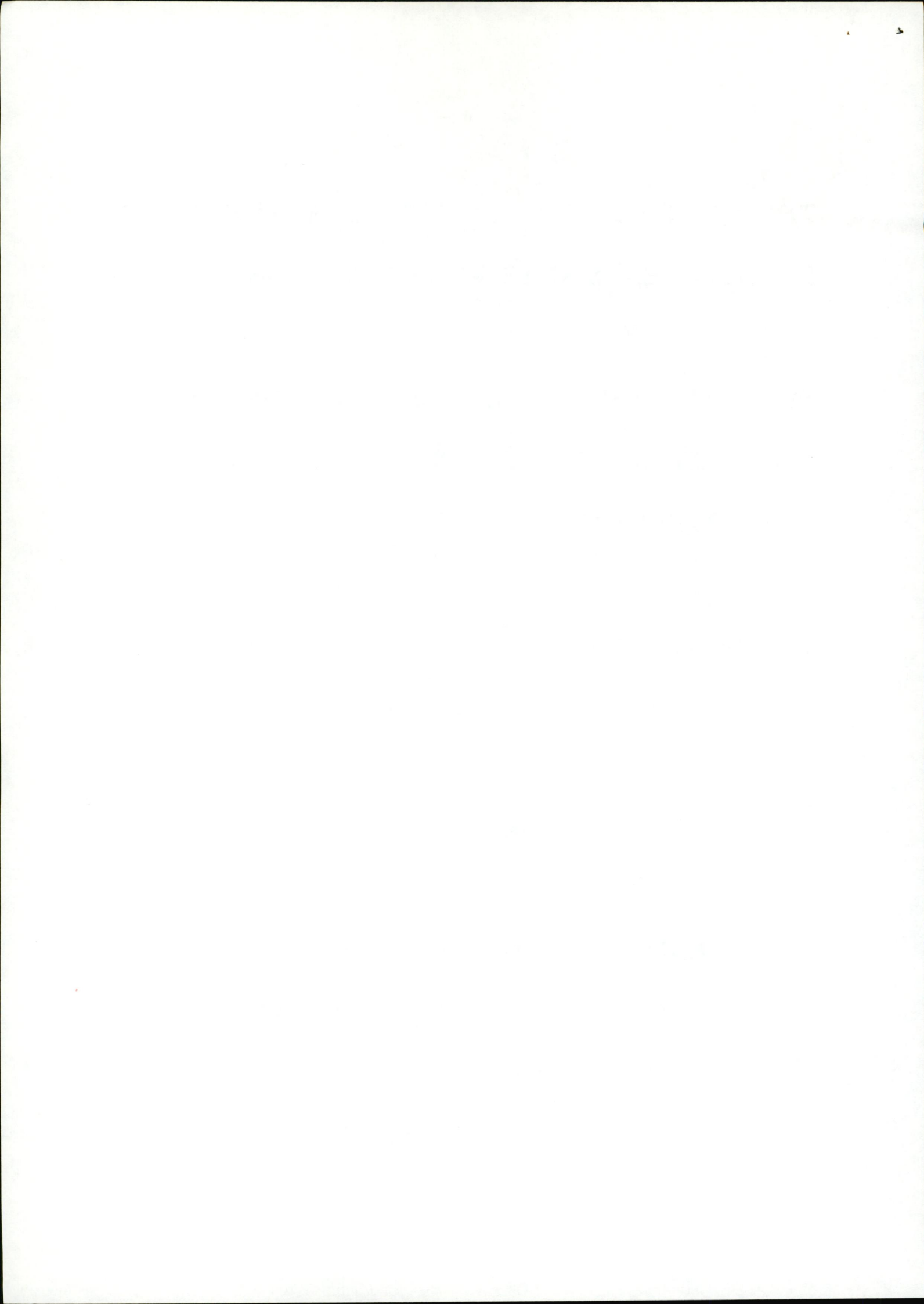


THE JOINT SELECT COMMITTEE, WHOSE WORK IN THIS AREA IS NEARING COMPLETION.

THE BILL CURRENTLY BEFORE THE HOUSE GIVES LEGISLATIVE FORCE AND DEFINITION TO THE GOVERNMENT'S REFORMS.

THE GOVERNMENT'S REFORMS WILL IMPROVE MANAGEMENT OF THE POLICE SERVICE BY:-

- CLEARLY DEFINING THE CHAIN OF COMMAND;
- ENFORCING ACCOUNTABILITY;
- STRENGTHENING COMMAND AND CONTROL; AND
- IMPROVING COMMUNICATION.



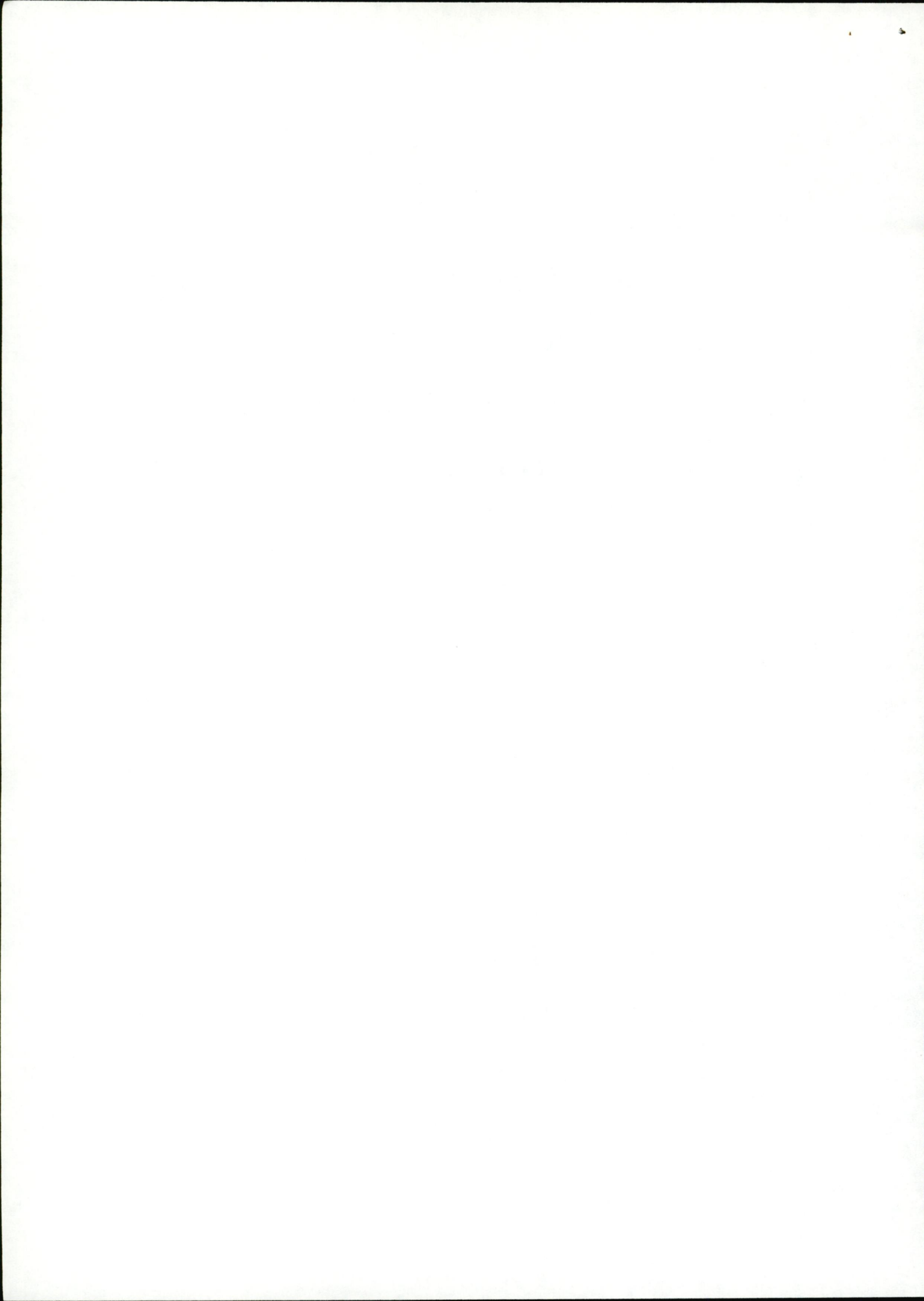
MR PRESIDENT,

IT IS THE GOVERNMENT'S DUTY TO ENSURE THAT OUR COMMUNITY RECEIVES THE LEVEL OF SERVICE AND PROTECTION IT DESERVES. AS MINISTER FOR POLICE I UNRESERVEDLY ACCEPT THIS RESPONSIBILITY.

POLICE REFORM IS NEEDED NOW BECAUSE OF:-

- MAJOR CHANGES AND CHALLENGES NOW FACED BY THE POLICE SERVICE;**

- SIGNIFICANT CHANGES TO NSW PUBLIC SECTOR SINCE THE COALITION CAME TO POWER IN 1988, AND**

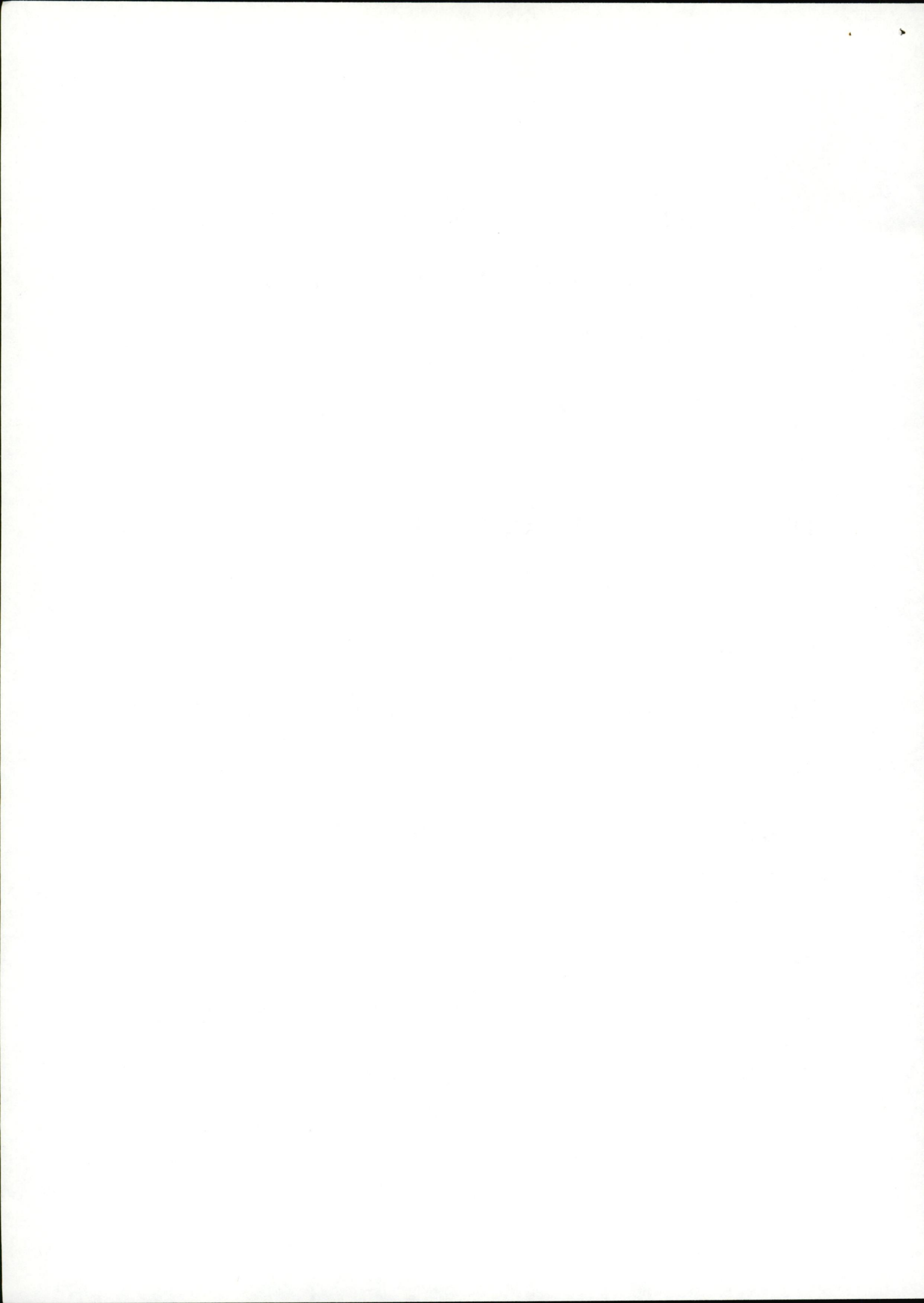


- COMMUNICATION AND MANAGEMENT PROBLEMS WHICH HAVE RECENTLY BECOME ALL TOO OBVIOUSLY APPARENT.

IT IS ABUNDANTLY CLEAR TO ME, AS MINISTER, THAT THE CURRENT LEGISLATIVE FRAMEWORK GOVERNING THE RELATIONSHIP BETWEEN MINISTER, COMMISSIONER AND POLICE BOARD IS A BARRIER TO MAKING THE POLICE SERVICE A BETTER MANAGED ORGANISATION.

MR PRESIDENT,

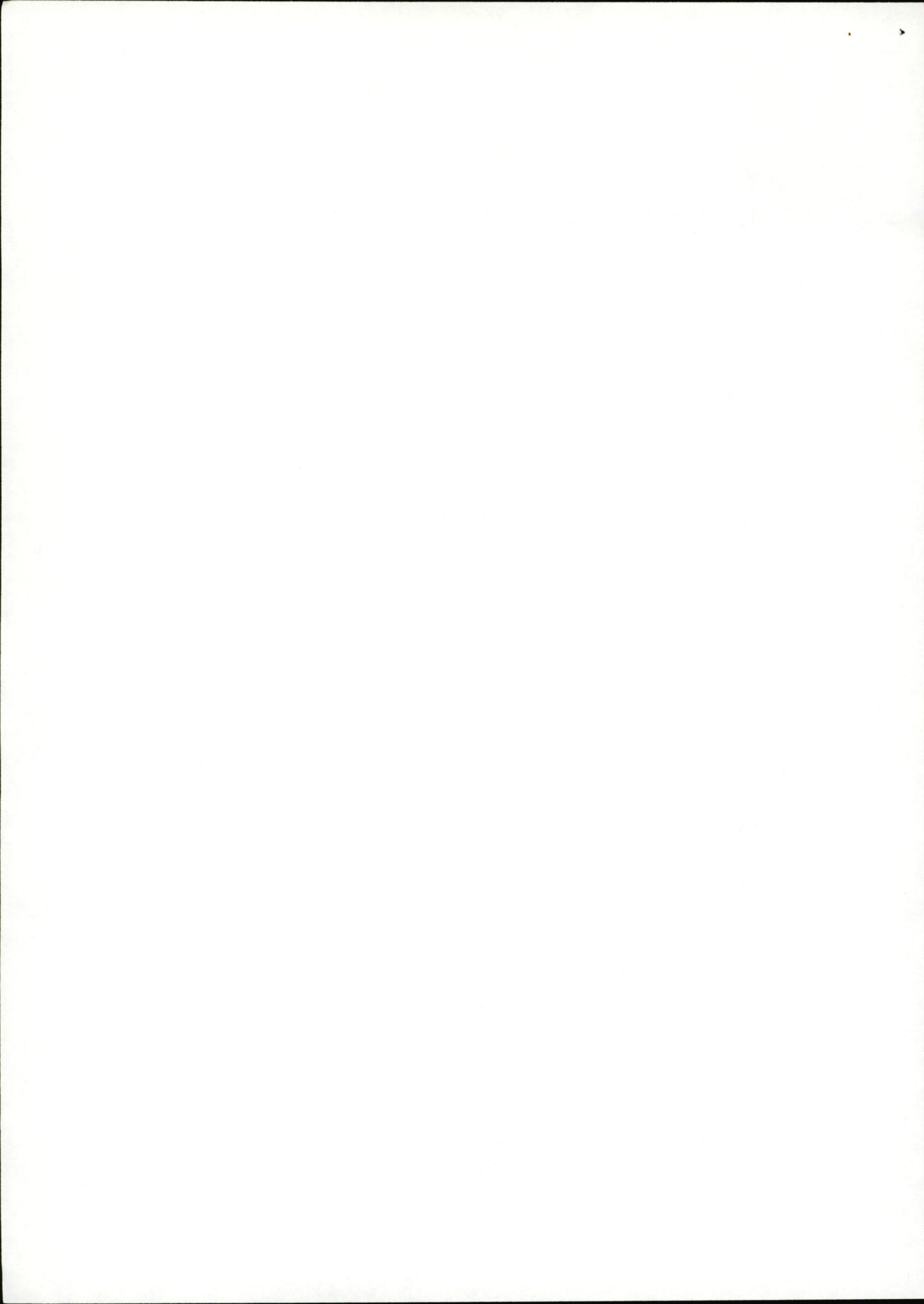
TWELVE YEARS AGO THE LUSHER COMMISSION OF INQUIRY EXAMINED A POLICE FORCE THAT WAS POORLY MANAGED AND STRUCTURED,



POORLY TRAINED, TOLERANT OF CORRUPTION AND UNRESPONSIVE TO THE COMMUNITY. IT IDENTIFIED NEW DIRECTIONS TO RESHAPE THE ORGANISATION.

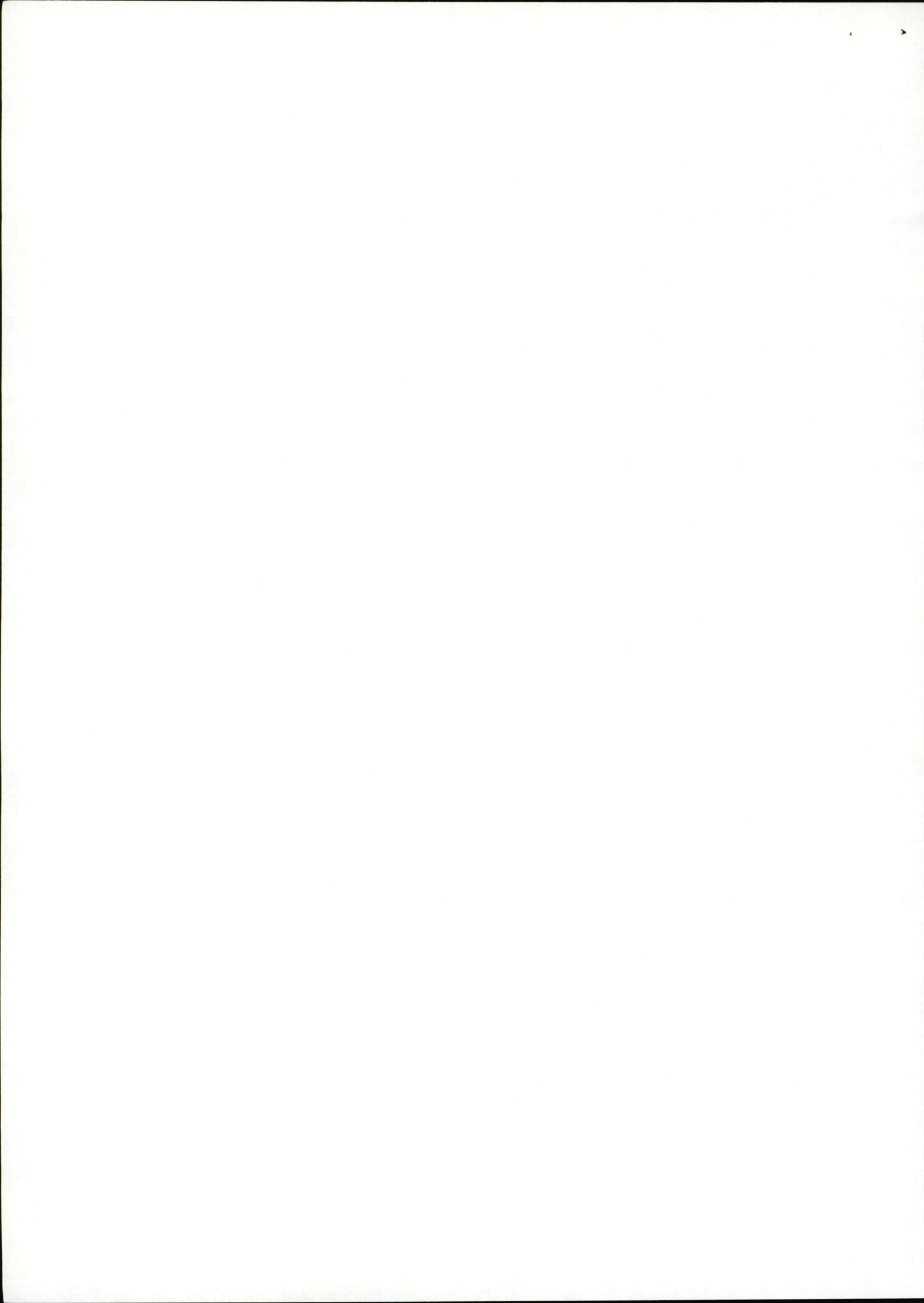
IN THE WAKE OF THE LUSHER REPORT, THE FORMER GOVERNMENT, WITH THE HONOURABLE MEMBER FOR LIVERPOOL TO THE FORE, TOOK THE OPPORTUNITY, THROUGH THE APPOINTMENT OF JOHN AVERY AS COMMISSIONER, TO TRANSFORM THE THEN POLICE FORCE.

THE OPERATIONAL STRATEGY ADOPTED TO TRANSFORM POLICING IN NEW SOUTH WALES WAS COMMUNITY BASED POLICING.



COMMUNITY BASED POLICING HAS CHANGED THE WAY POLICE INTERACT WITH THE COMMUNITY AND HOW POLICE SERVICES ARE DELIVERED. TOGETHER WITH REGIONALISATION AND THE REFORMS THAT HAVE TRANSFORMED THE PUBLIC SECTOR IN RECENT YEARS IT HAS ALSO CHANGED THE WAY THE POLICE SERVICE IS MANAGED.

BY MANY INDICATORS, SUCH AS: FINANCIAL PERFORMANCE, RATES OF REPORTED CRIME, AND LEVELS OF COMMUNITY SATISFACTION, IT IS CLEAR THAT TODAY'S POLICE SERVICE IS A VASTLY DIFFERENT AND BETTER ORGANISATION THAN THE ONE LUSHER EXAMINED.

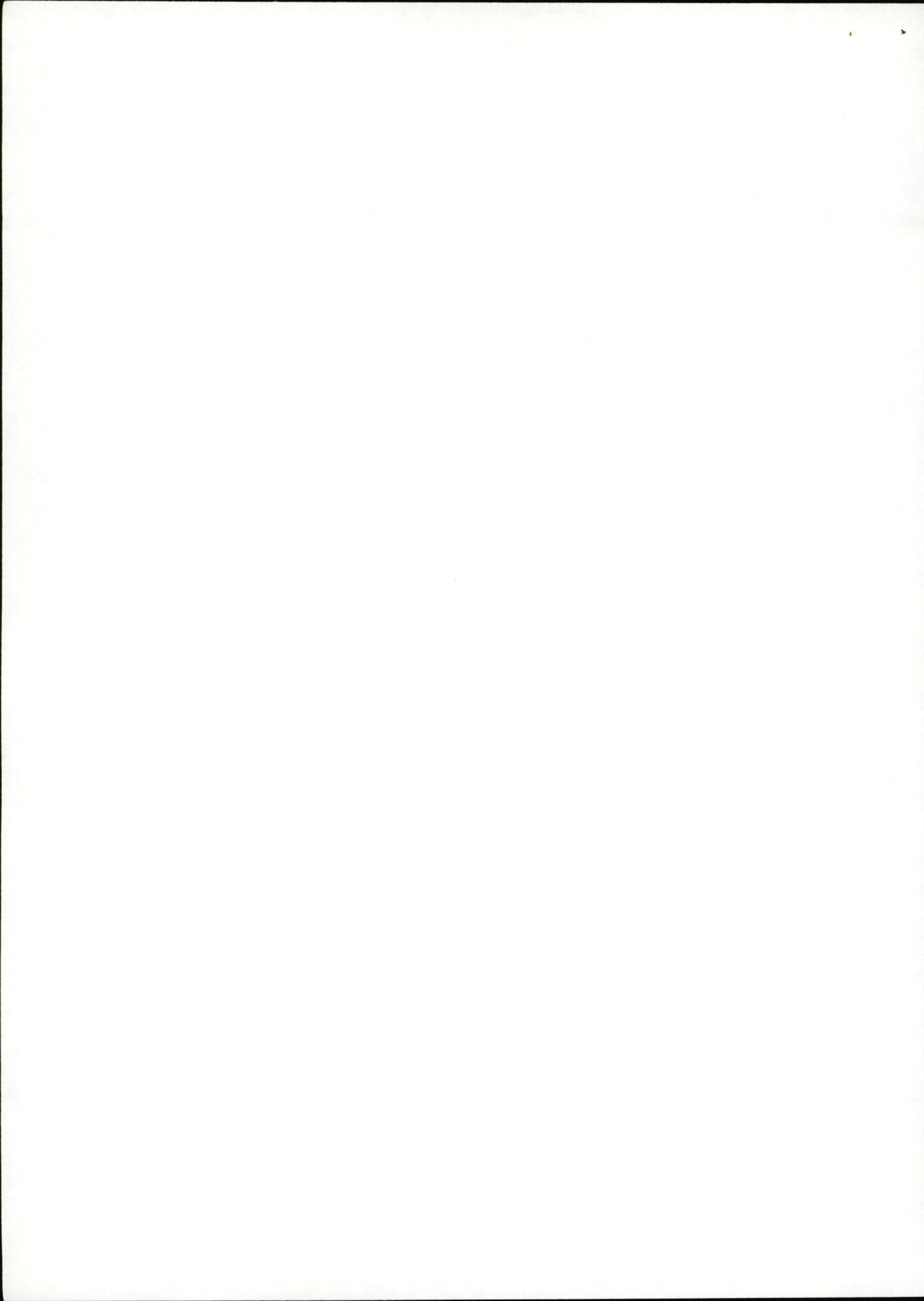


YET IT IS ALSO CLEAR THAT THE LEGISLATIVE AND MANAGERIAL STRUCTURE ERECTED ON LUSHER'S FOUNDATION IS NOW OUTMODED AND UNRESPONSIVE TO THE DEMANDS OF THE 1990'S.

THE MOST TELLING EXAMPLE LIES IN THE PRESENT RESPONSIBILITIES OF THE COMMISSIONER AND THE POLICE BOARD.

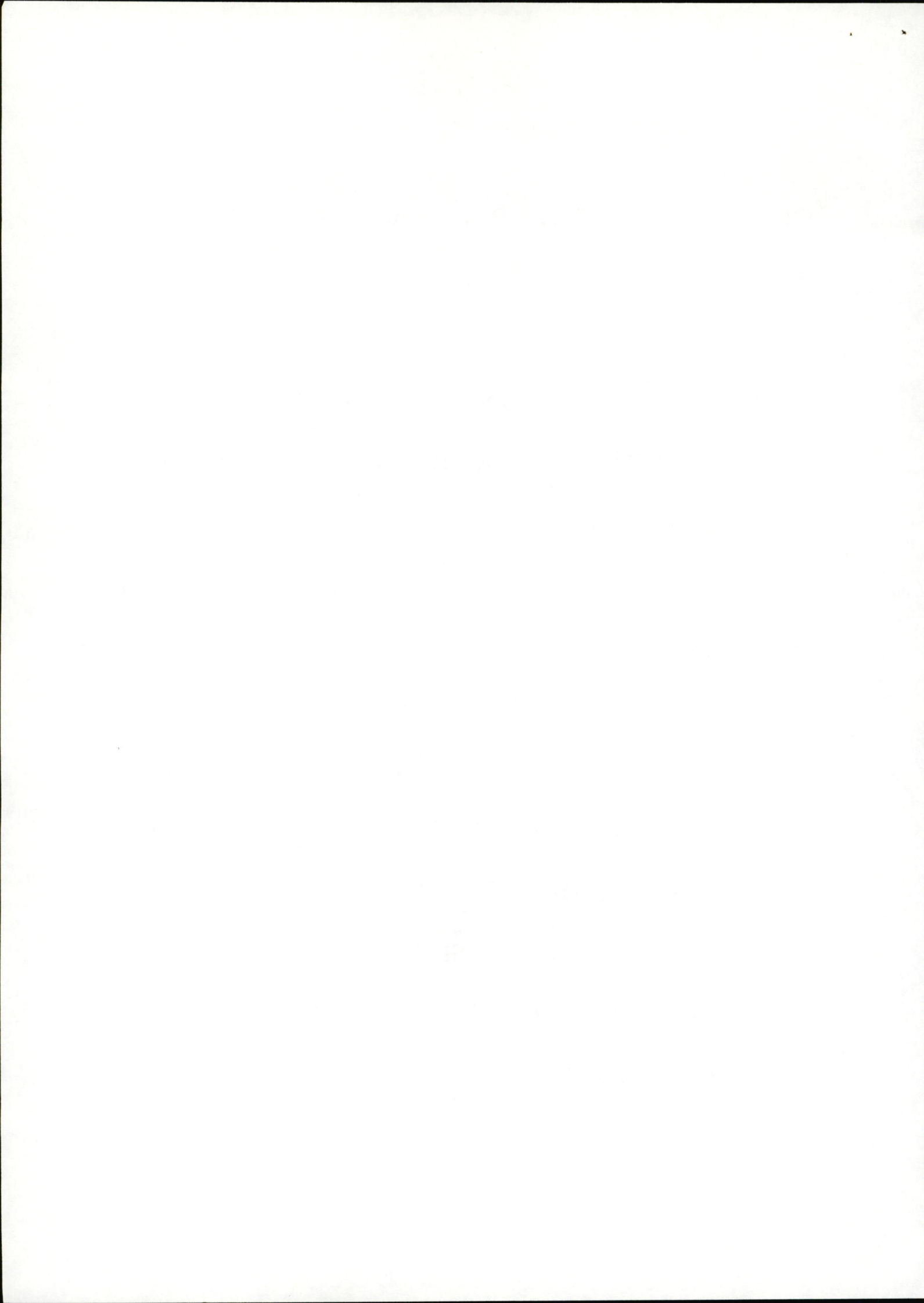
MR PRESIDENT,

AS HONOURABLE MEMBERS WOULD BE AWARE, ESTABLISHMENT OF A POLICE BOARD WAS A MAJOR RECOMMENDATION OF THE LUSHER INQUIRY. LUSHER THOUGHT ESTABLISHMENT



OF A BOARD DESIRABLE FOR THE FOLLOWING REASONS:-

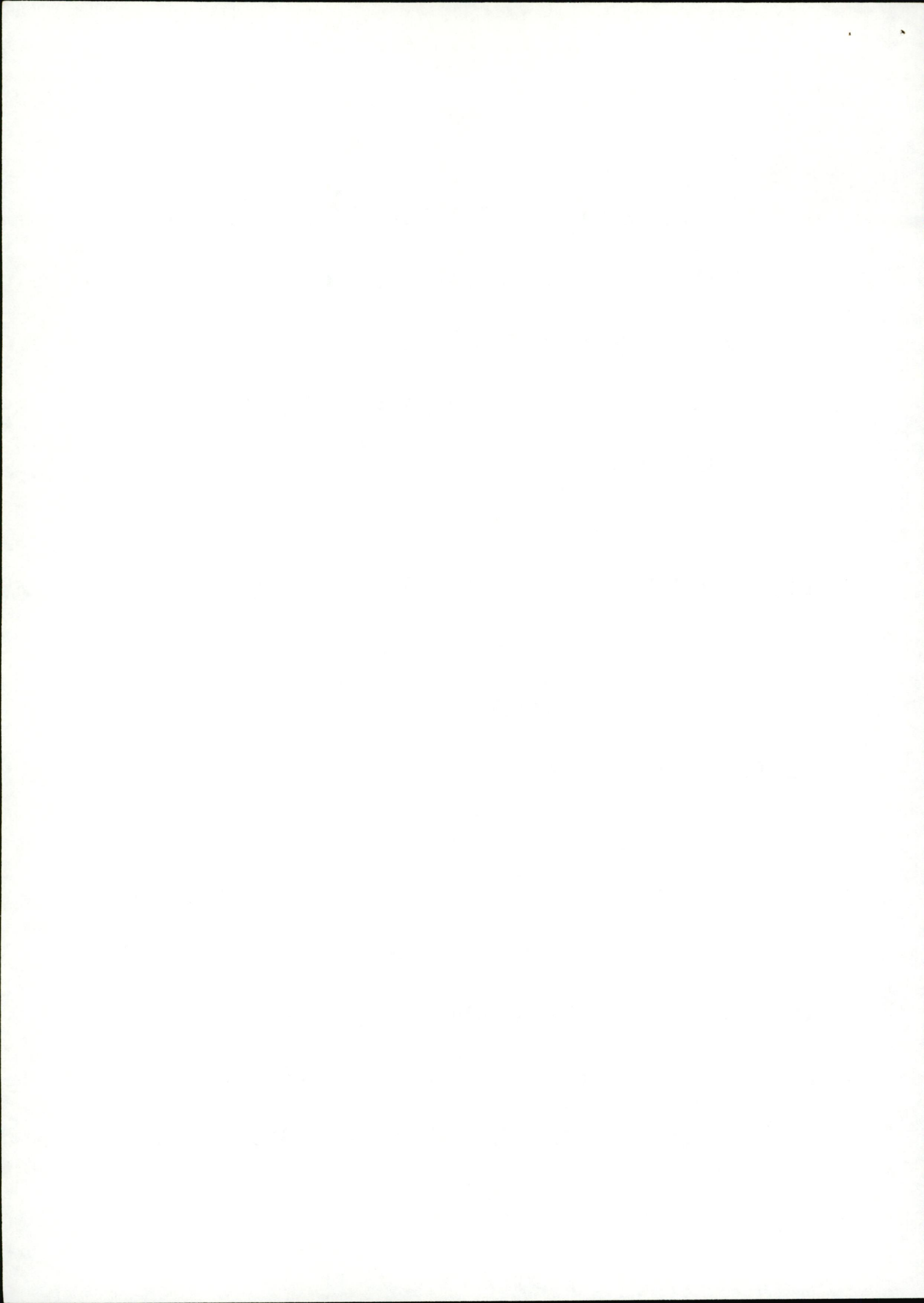
- **INTRODUCTION OF SPECIALISED MANAGEMENT AND ADMINISTRATIVE SKILLS AND CREATIVITY INTO A POLICE ADMINISTRATION WHICH THEN LACKED THESE QUALITIES.**
- **THE TASK OF ADMINISTERING THE POLICE FORCE AND IMPLEMENTING THE PROGRAM OF REFORM RECOMMENDED BY THE INQUIRY WAS CONSIDERED BEYOND THE CAPACITY OF ONE PERSON - THE COMMISSIONER.**



- THE BOARD WOULD TIE TOGETHER THE TWO ADMINISTRATIVE UNITS OF THE POLICE FORCE AND POLICE DEPARTMENT TO ENSURE EFFECTIVE IMPLEMENTATION OF CHANGE.

THE BOARD WAS RECOMMENDED TO BE RESPONSIBLE TO THE MINISTER FOR THE OVERALL ADMINISTRATION AND MANAGEMENT OF THE POLICE FORCE.

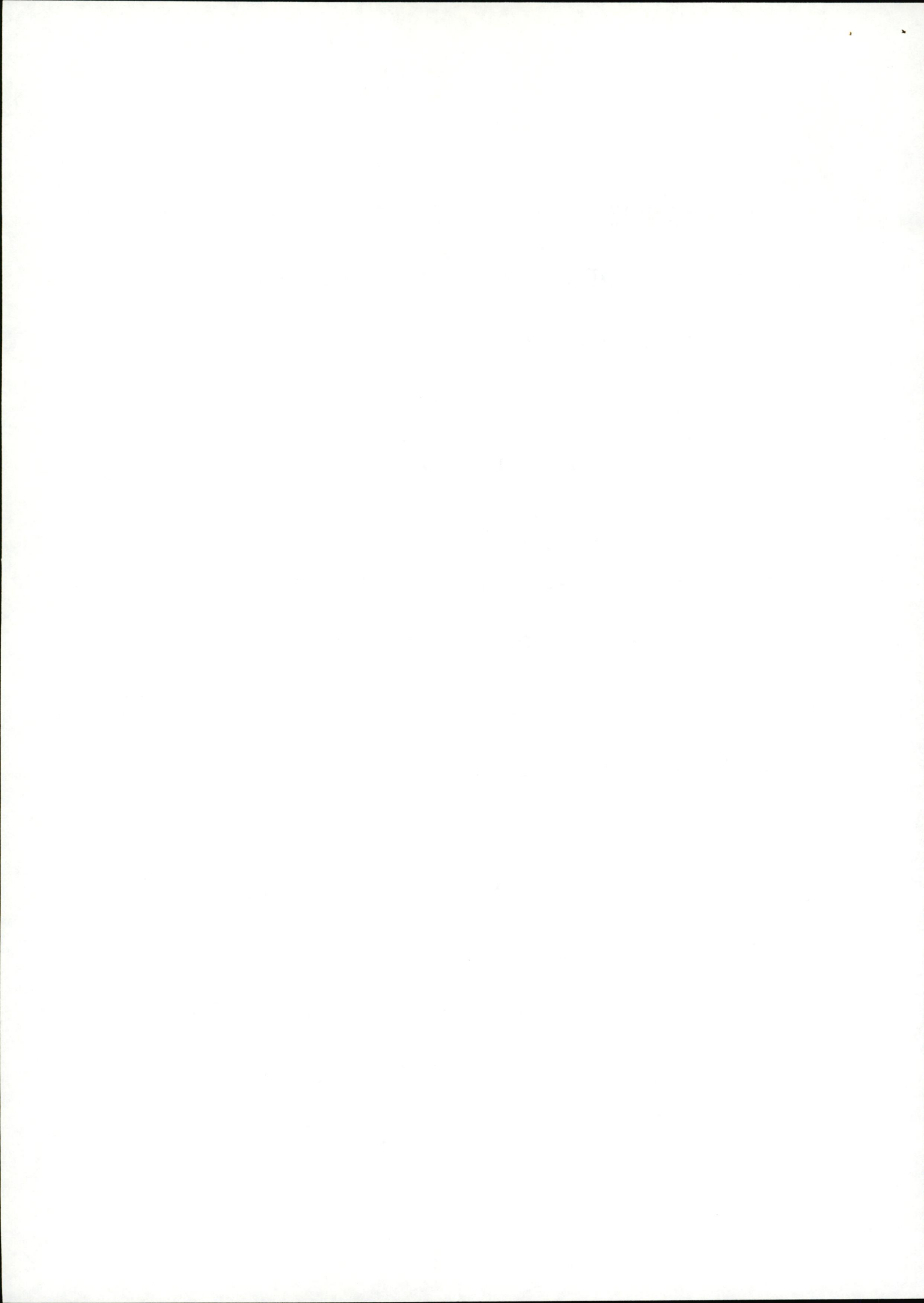
THE COMMISSIONER, SUBJECT TO MINISTERIAL DIRECTION, WOULD BE RESPONSIBLE TO THE MINISTER 'FOR THE SUPERINTENDENCE OF THE POLICE FORCE IN THE SENSE OF ITS OPERATIONAL COMMAND' AND WOULD ALSO



BE RESPONSIBLE FOR THE IMPLEMENTATION OF POLICY FORMULATED BY THE BOARD. AS CAN BE SEEN FROM THE POLICE SERVICE ACT, THE LEGISLATIVE BASIS OF THE LUSHER SCHEME WAS IMPLEMENTED.

THE LUSHER SCHEME CONTEMPLATED A BOARD ACTIVELY INVOLVED IN ALL ASPECTS OF THE ADMINISTRATION OF THE POLICE FORCE AND THE POLICE DEPARTMENT.

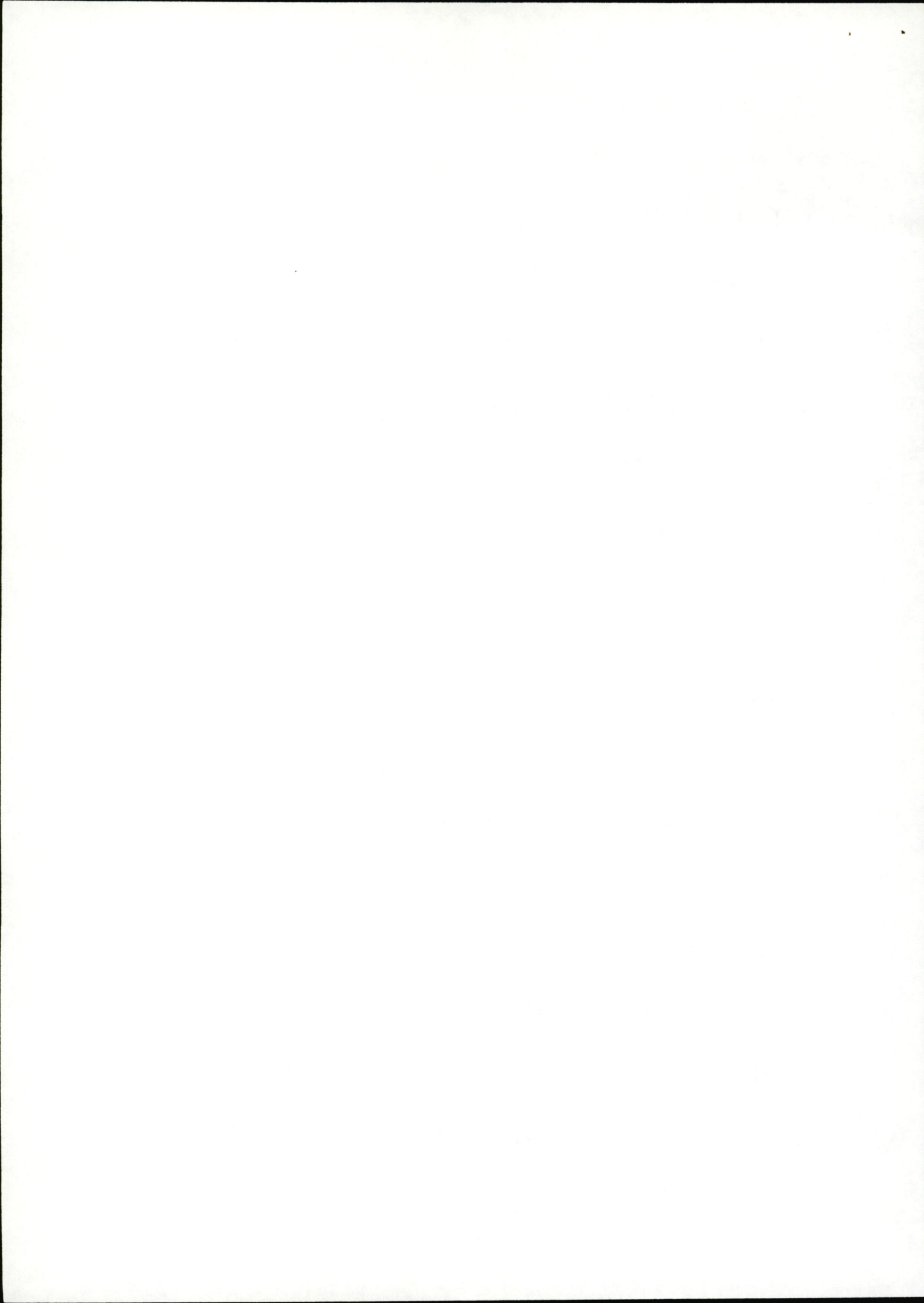
THE COMMISSIONER'S AUTONOMY WOULD BE SUBSTANTIALLY REDUCED AND THE BOARD WOULD MOVE TO RECTIFY MANAGEMENT DEFICIENCIES AND DRIVE THE PROGRAM OF REFORM OUTLINED IN THE REPORT.



MR PRESIDENT,

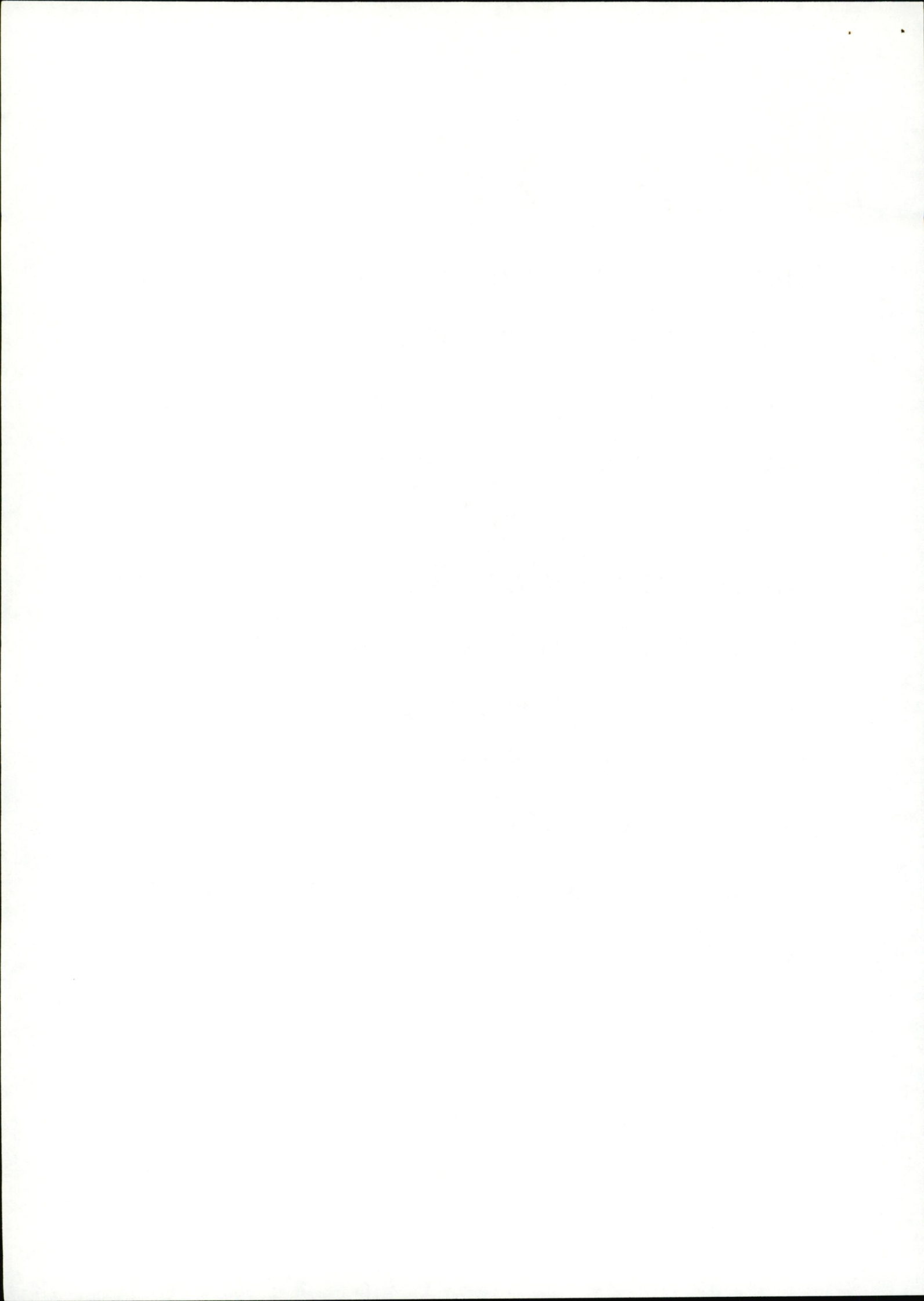
IN PRACTICE, THE ROLES, RESPONSIBILITIES AND AUTHORITY OF THE MINISTER, THE BOARD AND COMMISSIONER ARE NOT AS EASILY SEPARATED AS MR JUSTICE LUSHER RECOMMENDED.

THE MINISTER HAS A POWER OF DIRECTION OVER THE BOARD AND COMMISSIONER; THE COMMISSIONER ENJOYS HIS 'TRADITIONAL POSITION AND INDEPENDENCE' AT THE SAME TIME AS BEING RESPONSIBLE TO THE BOARD AND SUBJECT TO ITS DIRECTIONS; THE BOARD MUST 'PROMOTE THE IMPROVEMENT OF THE POLICE SERVICE AND ENSURE THE MAINTENANCE OF AN EFFICIENT AND



EFFECTIVE POLICE SERVICE' AND MAY GIVE DIRECTIONS TO THE COMMISSIONER WHO, NEVERTHELESS, IS PERSONALLY RESPONSIBLE FOR THE MANAGEMENT AND CONTROL OF THE POLICE SERVICE.

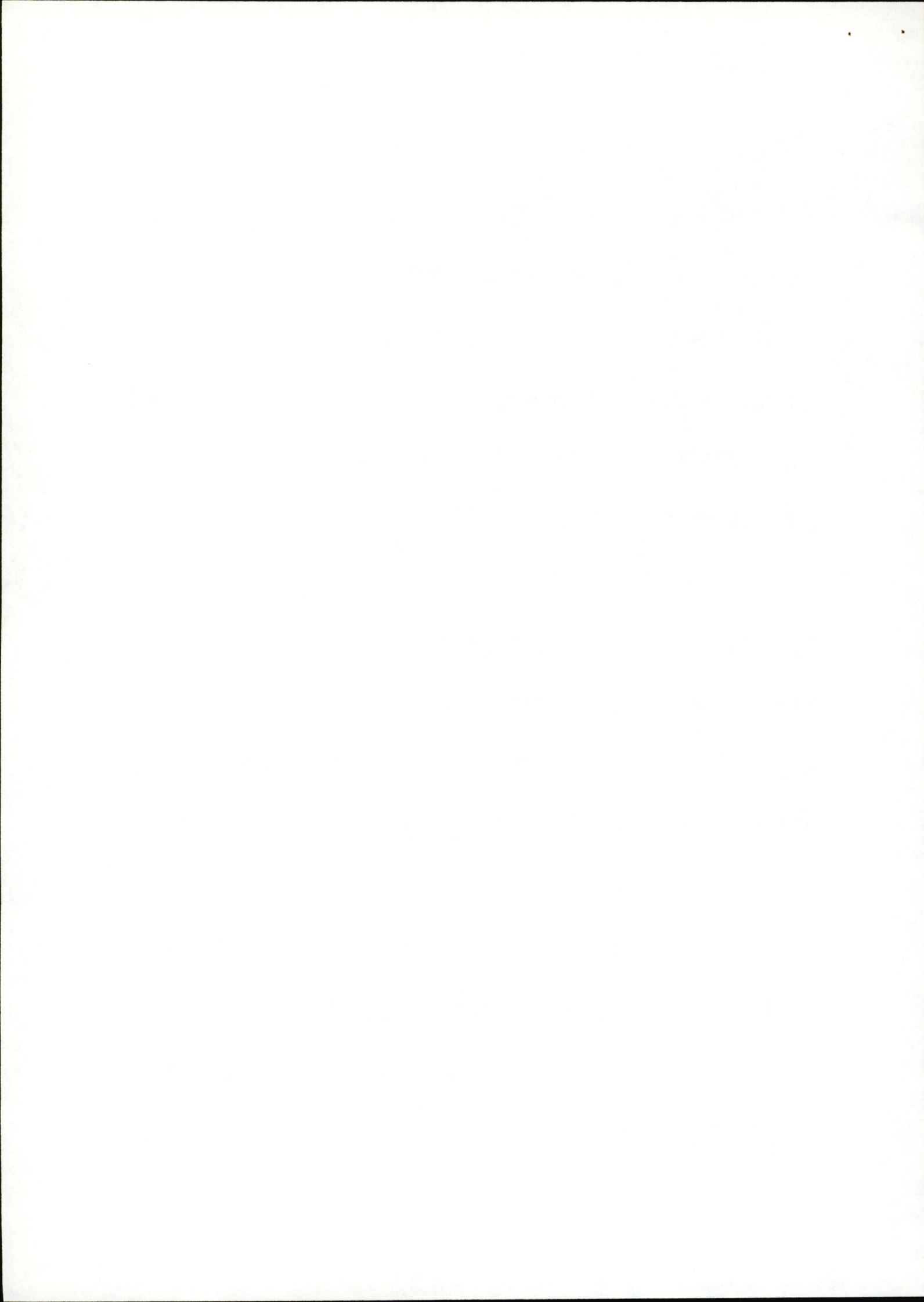
THERE IS AMPLE SCOPE IN THIS ARRANGEMENT FOR CONFLICT AND CONFUSION. IN FACT, THE ARRANGEMENT APPEARS TO HAVE WORKED WELL UNTIL RECENTLY WHICH IS A TESTAMENT TO THE GOOD WILL, COMMONSENSE AND UNITY OF PURPOSE OF ALL CONCERNED.



HOWEVER, ON BECOMING MINISTER FOR POLICE, IT WAS CLEAR TO ME THAT IT WAS NECESSARY TO ACT TO MAKE THE COMMISSIONER CLEARLY RESPONSIBLE TO THE MINISTER IN THE SAME WAY AS OTHER DEPARTMENT HEADS.

IT IS A CENTRAL PRINCIPLE OF GOOD MANAGEMENT THAT CLEAR LINES OF RESPONSIBILITY, COMMAND AND ACCOUNTABILITY MUST BE MAINTAINED.

IT IS ESSENTIAL THAT THE COMMISSIONER HAVE CLEAR AND DIRECT RESPONSIBILITY FOR THE DAY-TO-DAY MANAGEMENT OF THE POLICE SERVICE. TO ACHIEVE THAT, THE

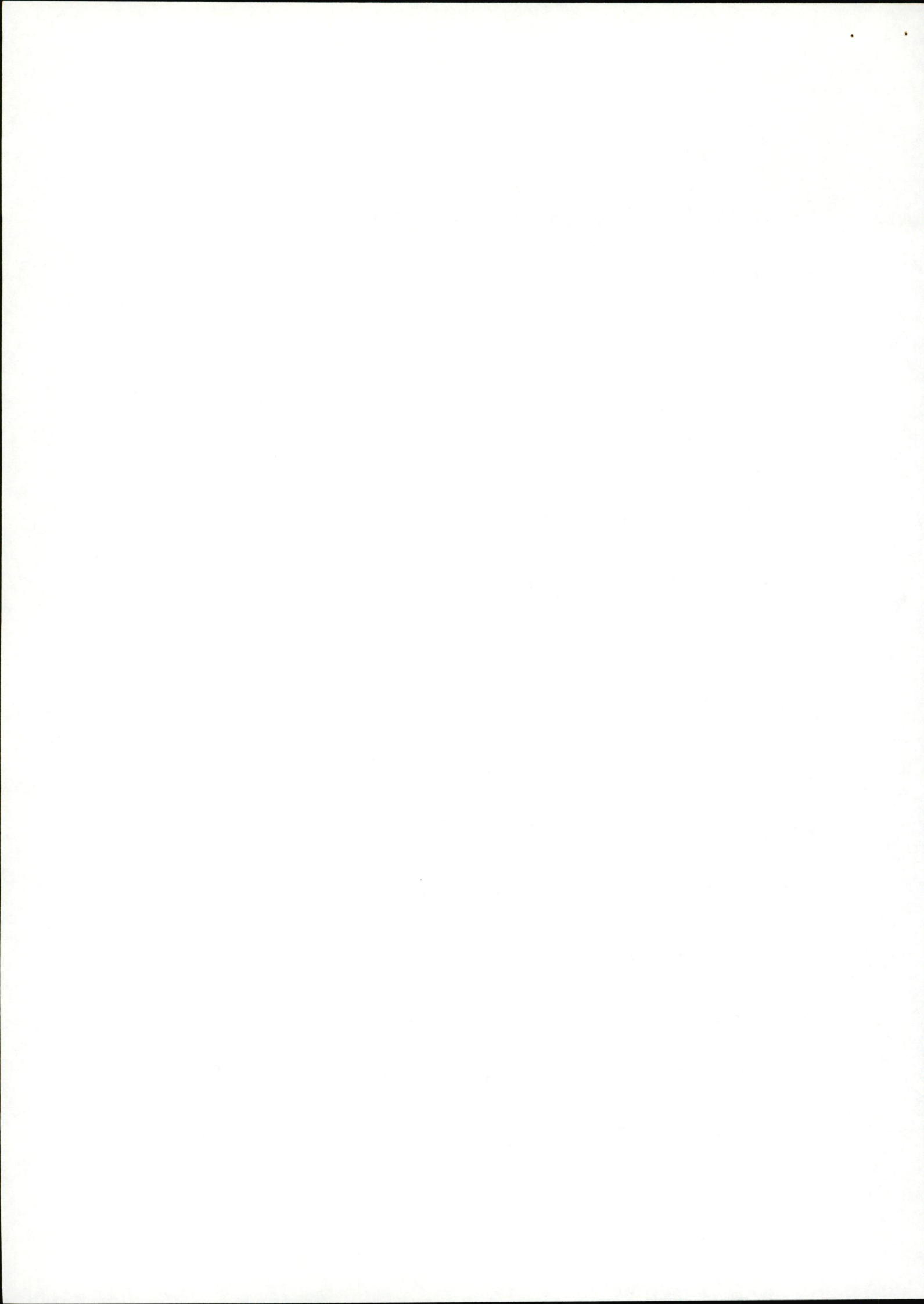


COMMISSIONER MUST HAVE THE NECESSARY
AUTHORITY.

THIS BILL WILL ENSURE THAT THE
COMMISSIONER WILL BE FULLY ACCOUNTABLE
TO THE POLICE MINISTER FOR THE
MANAGEMENT OF THE SERVICE.

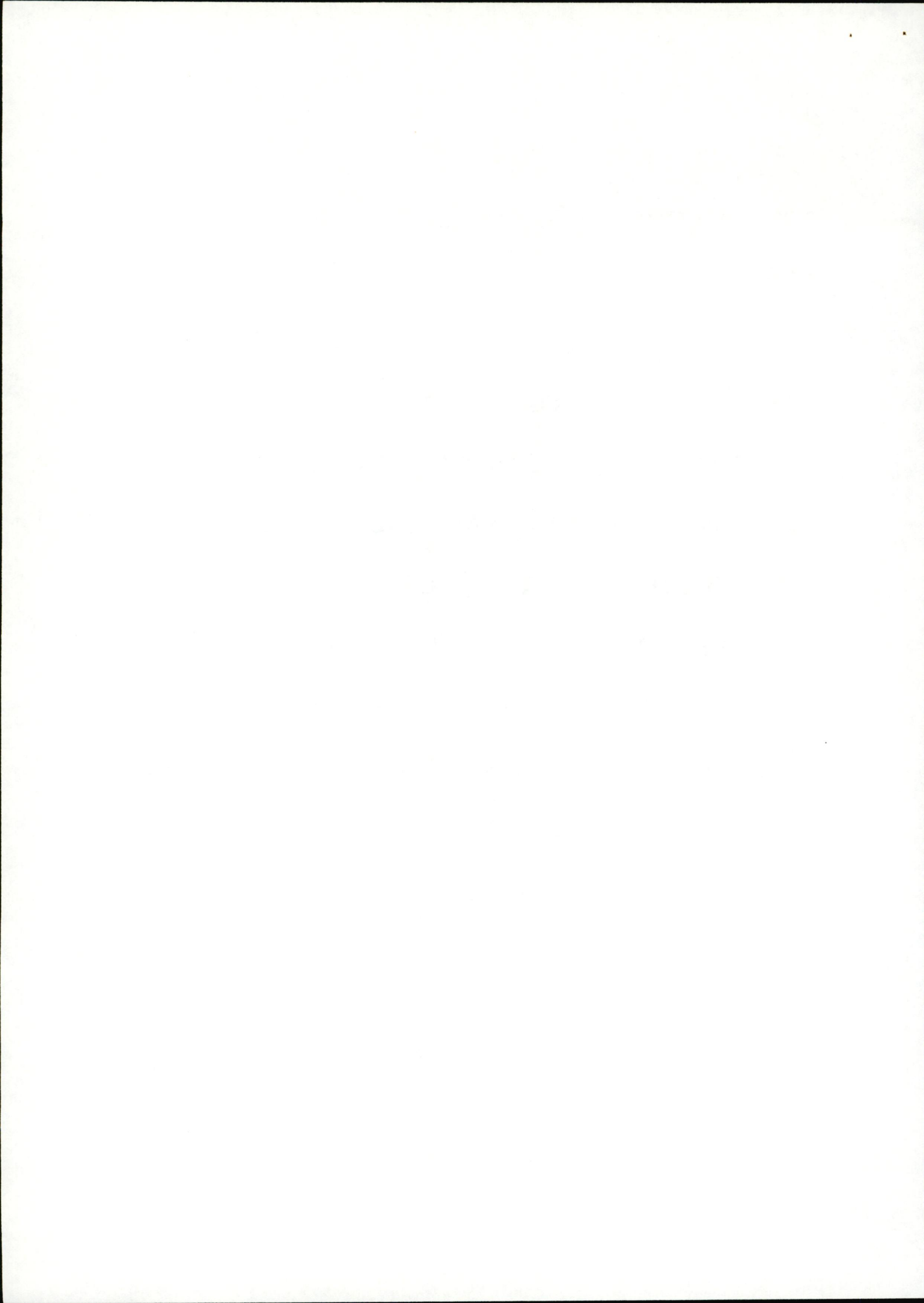
MR PRESIDENT,

THE LUSHER INQUIRY'S RECOMMENDATION
FOR A POLICE BOARD WAS BASED ON THE
CIRCUMSTANCES WHICH PREVAILED IN 1981.
THE TASK OF IMPLEMENTING THE PROGRAM
OF STRUCTURAL REFORM TO ATTACK
INSTITUTIONALISED CORRUPTION AND TO
IMPROVE THE SKILLS AND CAPACITIES OF THE



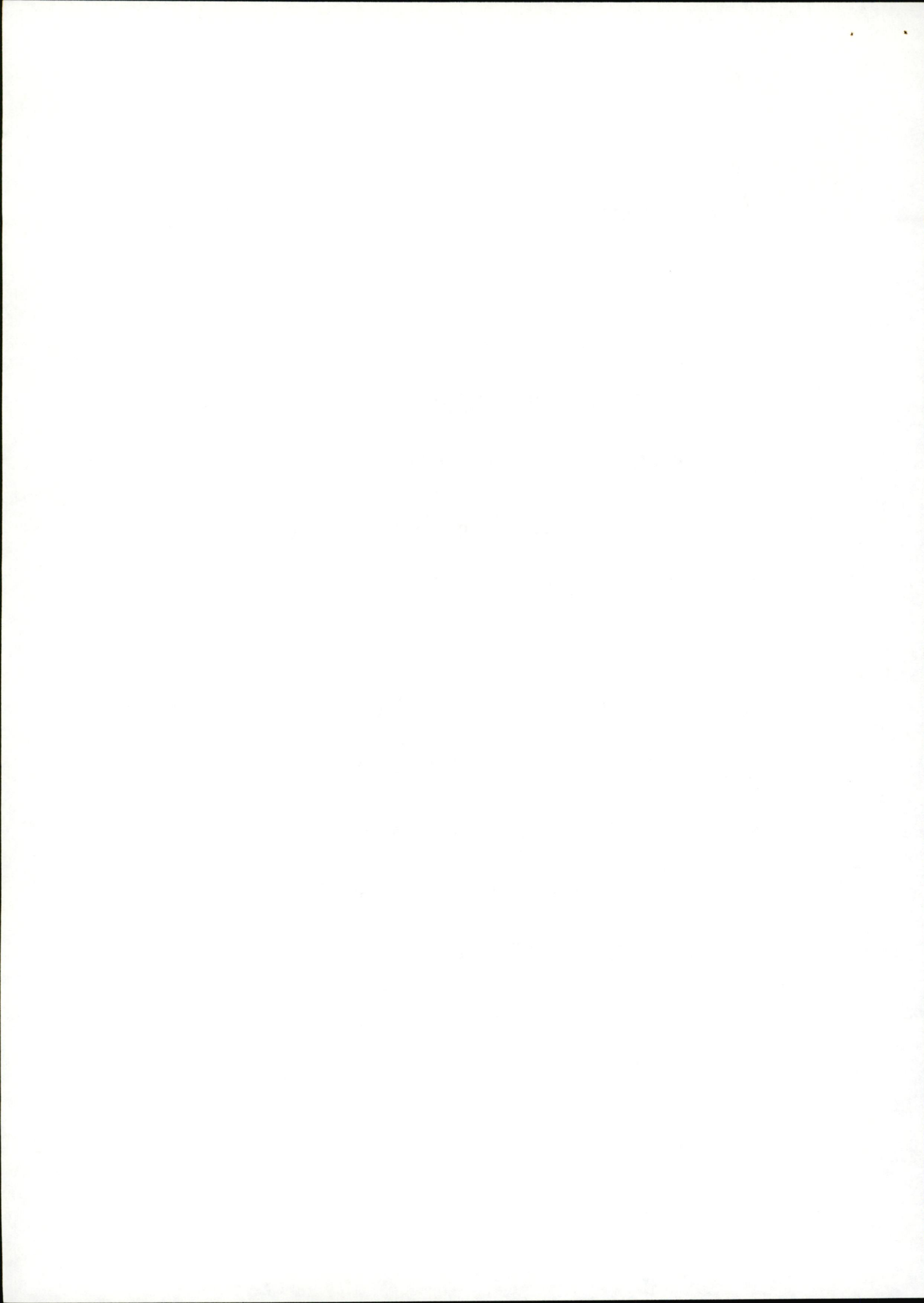
POLICE FORCE AND POLICE DEPARTMENT, WAS FORMIDABLE.

THE POLICE BOARD WAS OF CRITICAL ASSISTANCE TO COMMISSIONER AVERY IN DRIVING THESE REFORMS AND IT IS ENTITLED TO MUCH OF THE CREDIT FOR THE ACHIEVEMENTS OF THAT PERIOD. THE QUESTION IS WHETHER THE POLICE BOARD IS STILL ESSENTIAL IN AN ENVIRONMENT THAT HAS UNDERGONE FUNDAMENTAL CHANGE SINCE COMPLETION OF THE LUSHER REPORT.

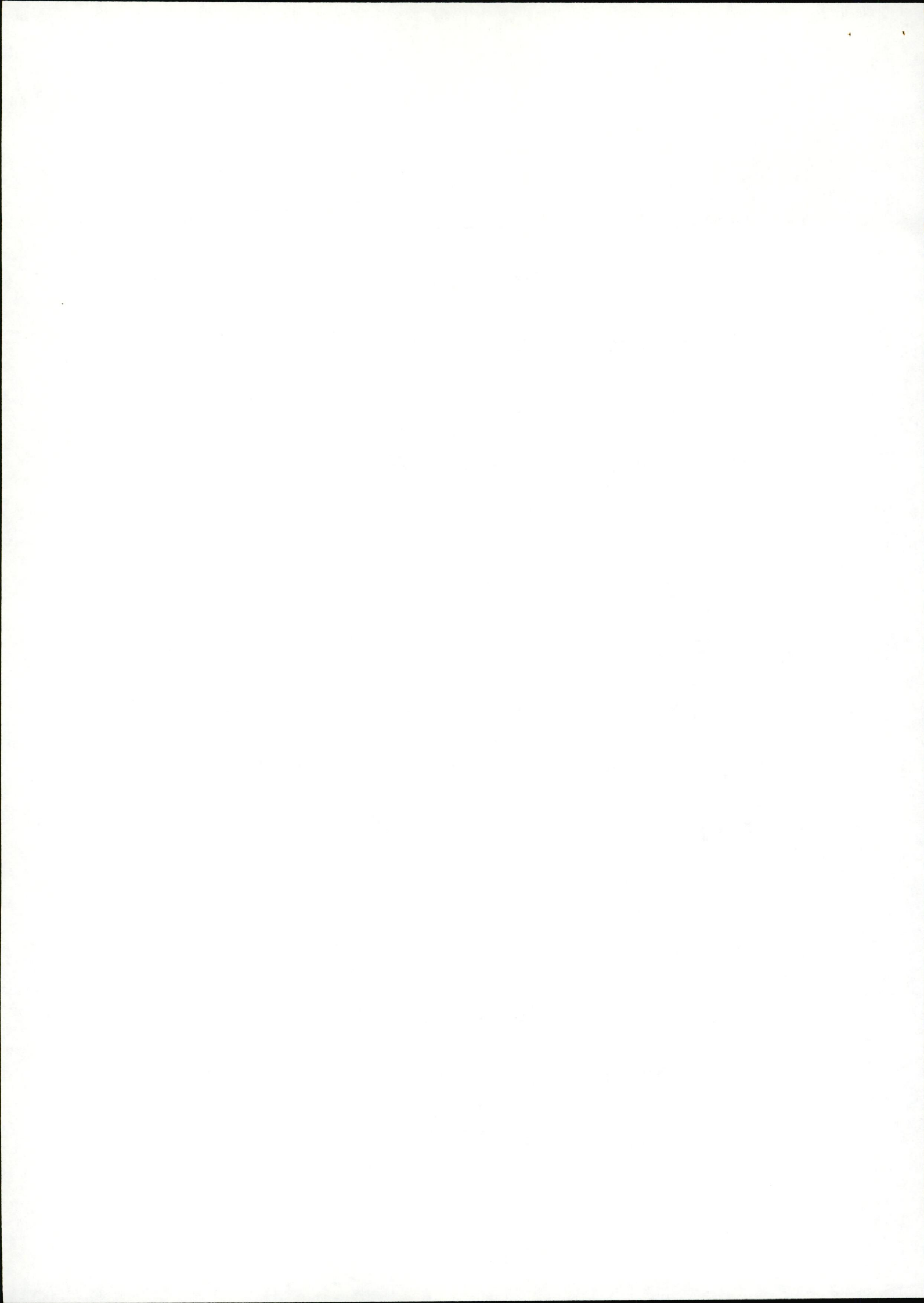


I WOULD LIKE TO TAKE SOME TIME TO LIST SOME OF THE KEY CHANGES:

- THE FORMER POLICE FORCE AND POLICE DEPARTMENT ARE NOW AMALGAMATED INTO A SINGLE SERVICE OF WHICH THE COMMISSIONER IS CEO.
- REGIONALISATION AND THE DISBANDING OF THE CRIMINAL INVESTIGATION BRANCH, WHICH HAVE HAD A MARKED IMPACT ON PERFORMANCE IN THE FIGHT AGAINST POLICE CORRUPTION.

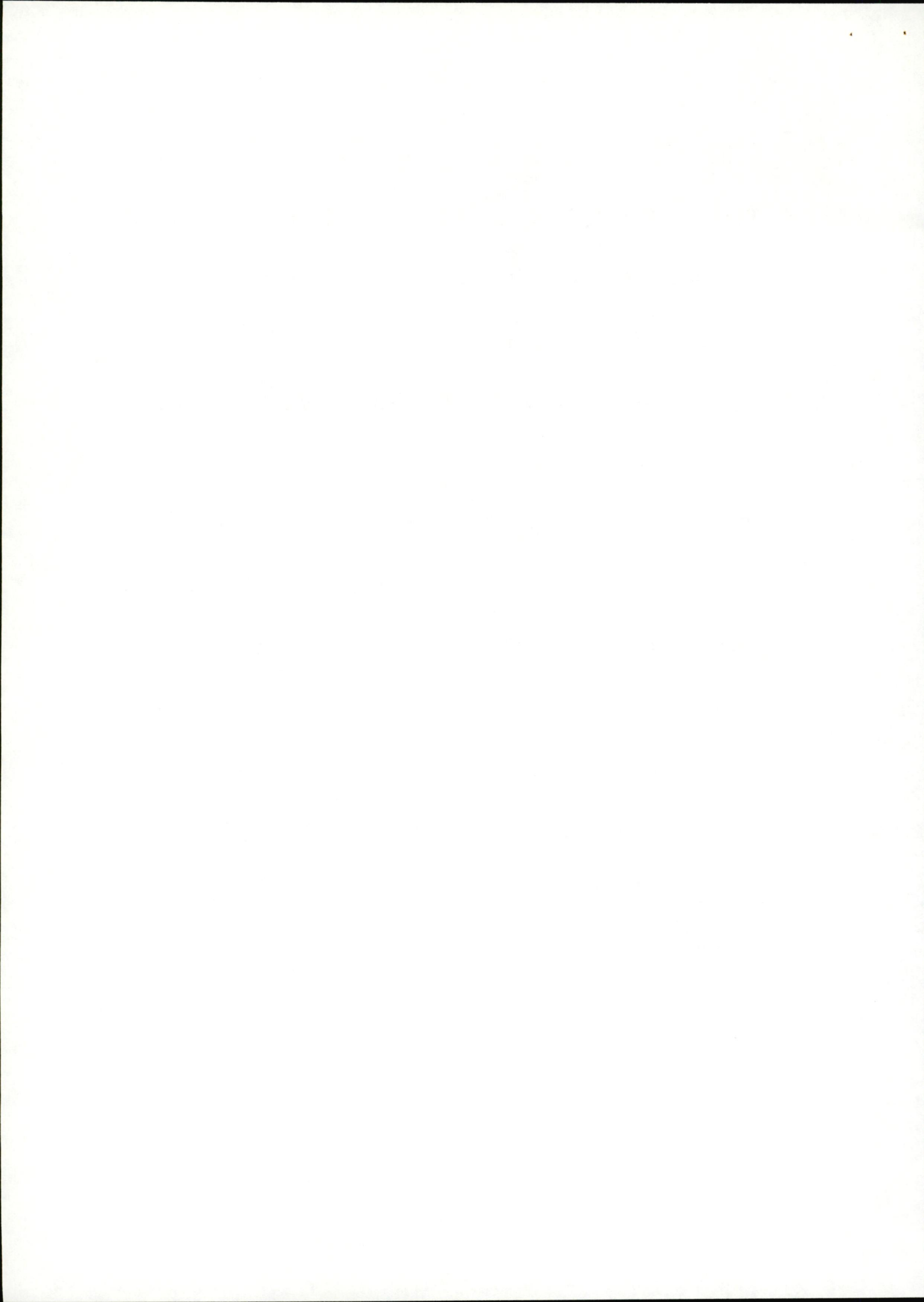


- A MERIT BASED AND COMPETITIVE SYSTEM FOR SELECTION AND PROMOTION OF PERSONNEL, AND A MODERN APPROACH TO THEIR TRAINING AND CAREER DEVELOPMENT, ARE NOW IN PLACE.
- FINANCIAL AND ADMINISTRATIVE RESPONSIBILITY HAS BEEN DEVOLVED DOWN THE COMMAND STRUCTURE ENCOURAGING GREATER FLEXIBILITY, EFFICIENCY AND ECONOMY.
- THE POLICE SERVICE IS SUBJECT TO MUCH GREATER EXTERNAL SCRUTINY THAN AT THE TIME OF THE LUSHER INQUIRY THROUGH PARLIAMENTARY PROCESSES,



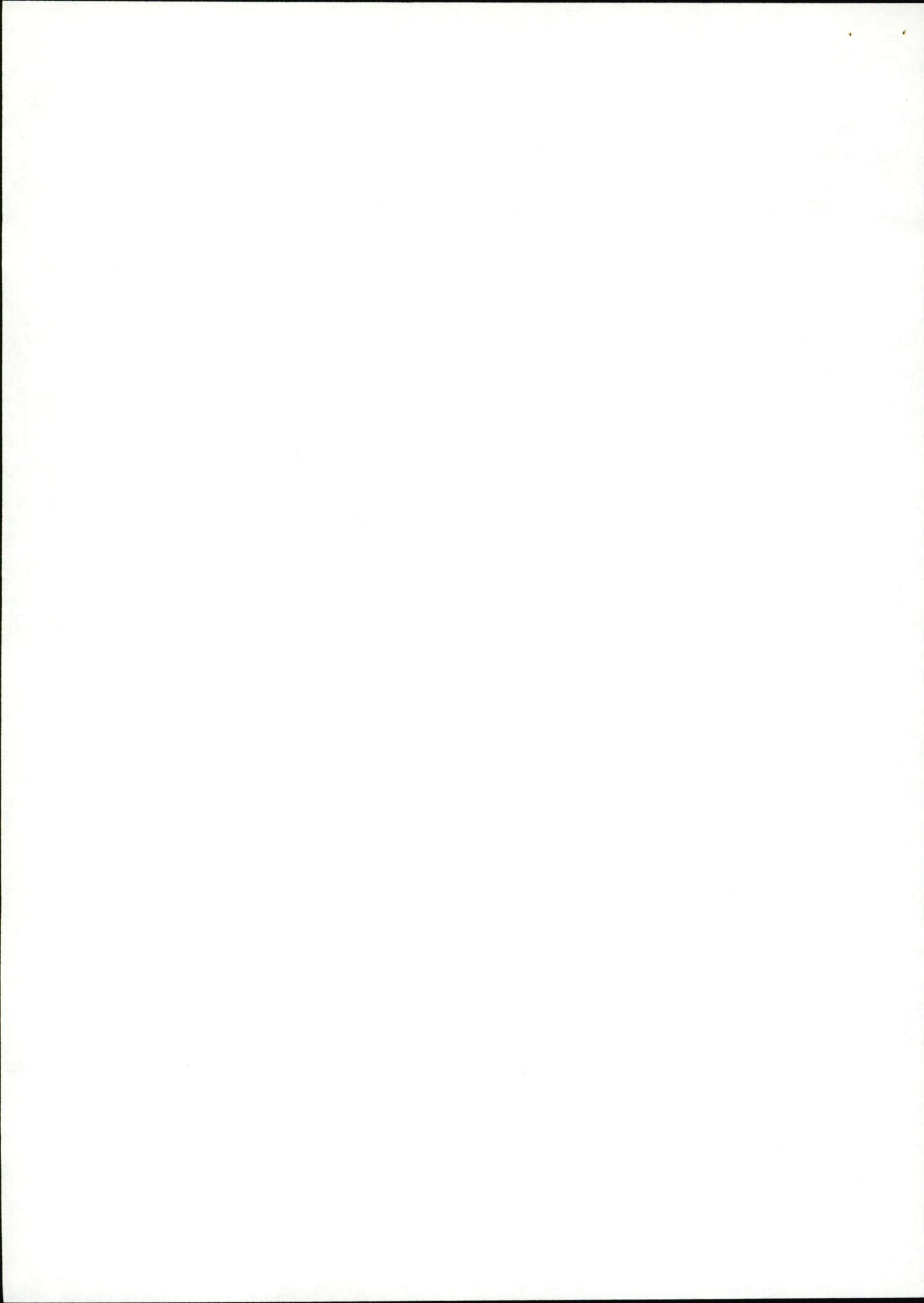
THE CHANGED ROLE OF THE AUDITOR GENERAL AND OF THE OMBUDSMAN, THE EXISTENCE OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION, ETC.

- THE ADMINISTRATIVE EXPERTISE OF THE POLICE SERVICE HAS INCREASED ENORMOUSLY SINCE LUSHER. OFFICERS WITH APPROPRIATE QUALIFICATIONS AND EXPERIENCE ARE NOW RESPONSIBLE FOR THE PROVISION OF CORPORATE, FINANCE AND OTHER KEY MANAGEMENT RESPONSIBILITIES.



DESPITE THESE CHANGES, THE NEED FOR A DISTINCT SECOND REFORM PHASE IS NOW EVIDENT. THE COMMISSIONER AND THE POLICE SERVICE ARE NOW EXPECTED TO HAVE THE CAPACITY TO EFFECTIVELY AND EFFICIENTLY MANAGE THEIR RESOURCES. THE POLICE SERVICE COMPRISES 16,000 PEOPLE AND A \$1 BILLION RECURRENT EXPENDITURE.

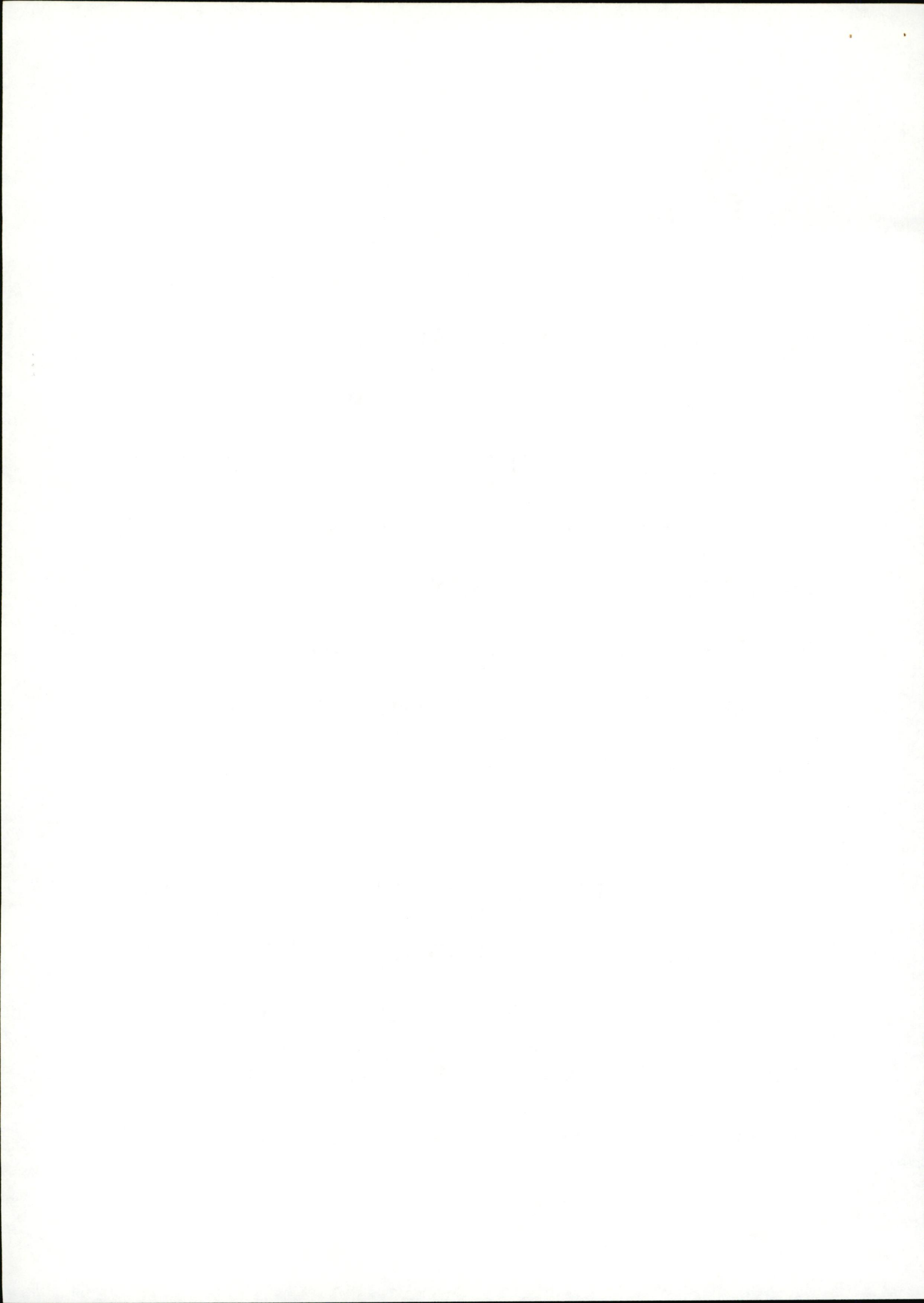
THE COMMISSIONER'S RESPONSIBILITIES TO THE MINISTER IN REGARD TO MANAGEMENT OF THIS ENORMOUS ENTERPRISE ARE THE SAME AS ANY OTHER DEPARTMENT HEAD IN THE STATE PUBLIC SECTOR. IT FOLLOWS THAT HE MUST BE AS FULLY ACCOUNTABLE AS ANY OTHER DEPARTMENT HEAD.



MR PRESIDENT,

I CAN ASSURE HONOURABLE MEMBERS THAT THE CONVENTION WHEREBY THE POLICE COMMISSIONER IS IMMUNE FROM DIRECTION BY THE MINISTER ON MATTERS RELATING TO LAW ENFORCEMENT WILL CONTINUE TO BE OBSERVED. THE MINISTER'S RIGHT TO RECEIVE INFORMATION AND TO GIVE DIRECTIONS TO THE COMMISSIONER IS ALSO TO BE PRESERVED.

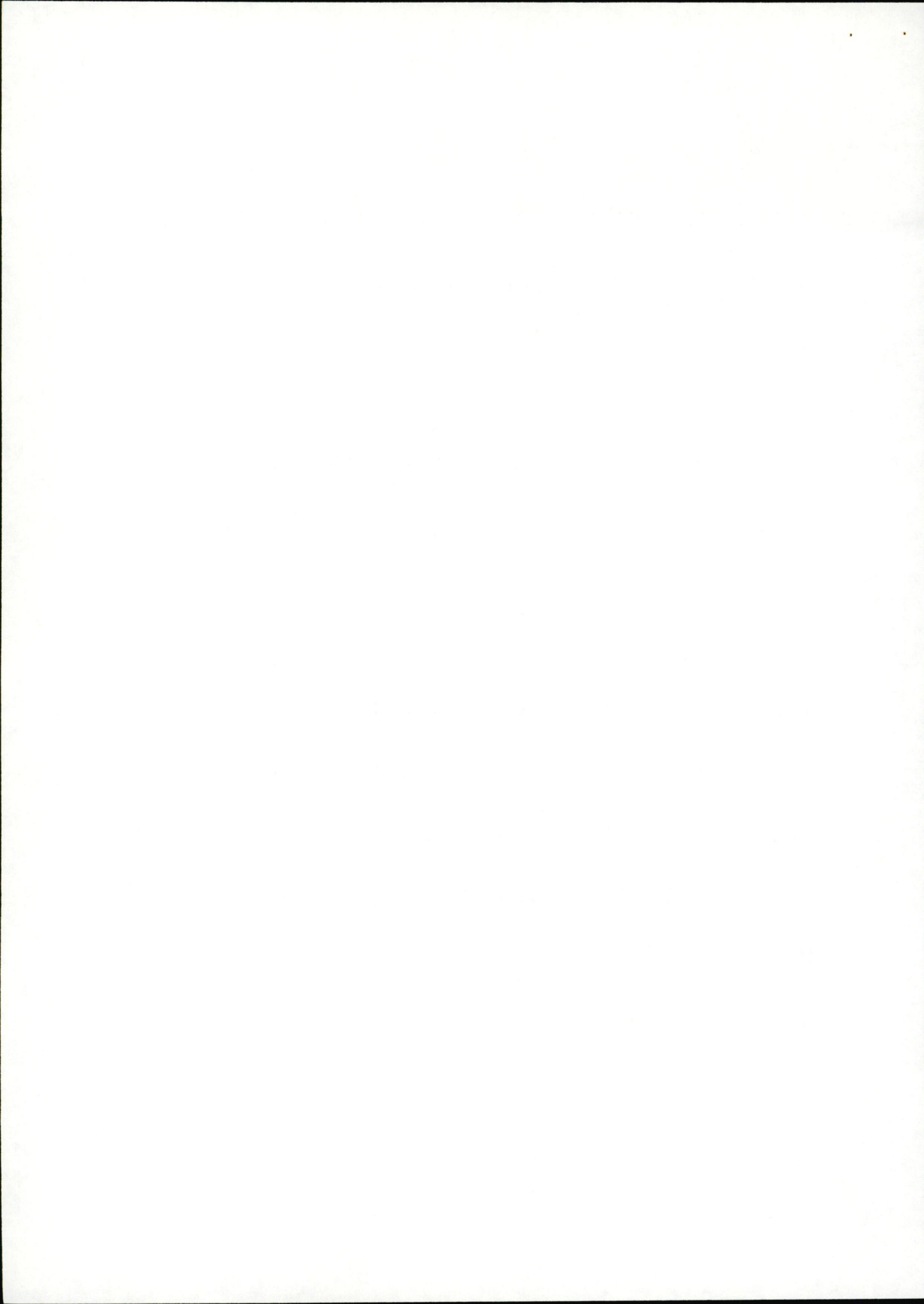
AS I NOTED PREVIOUSLY, THE POLICE BOARD CURRENTLY HAS STATUTORY RESPONSIBILITY FOR ENSURING THE POLICE SERVICE IS "EFFICIENT AND EFFECTIVE", BUT THE COMMISSIONER IS RESPONSIBLE FOR THE



"MANAGEMENT AND CONTROL" OF THE SERVICE. BOTH ARE RESPONSIBLE TO THE MINISTER.

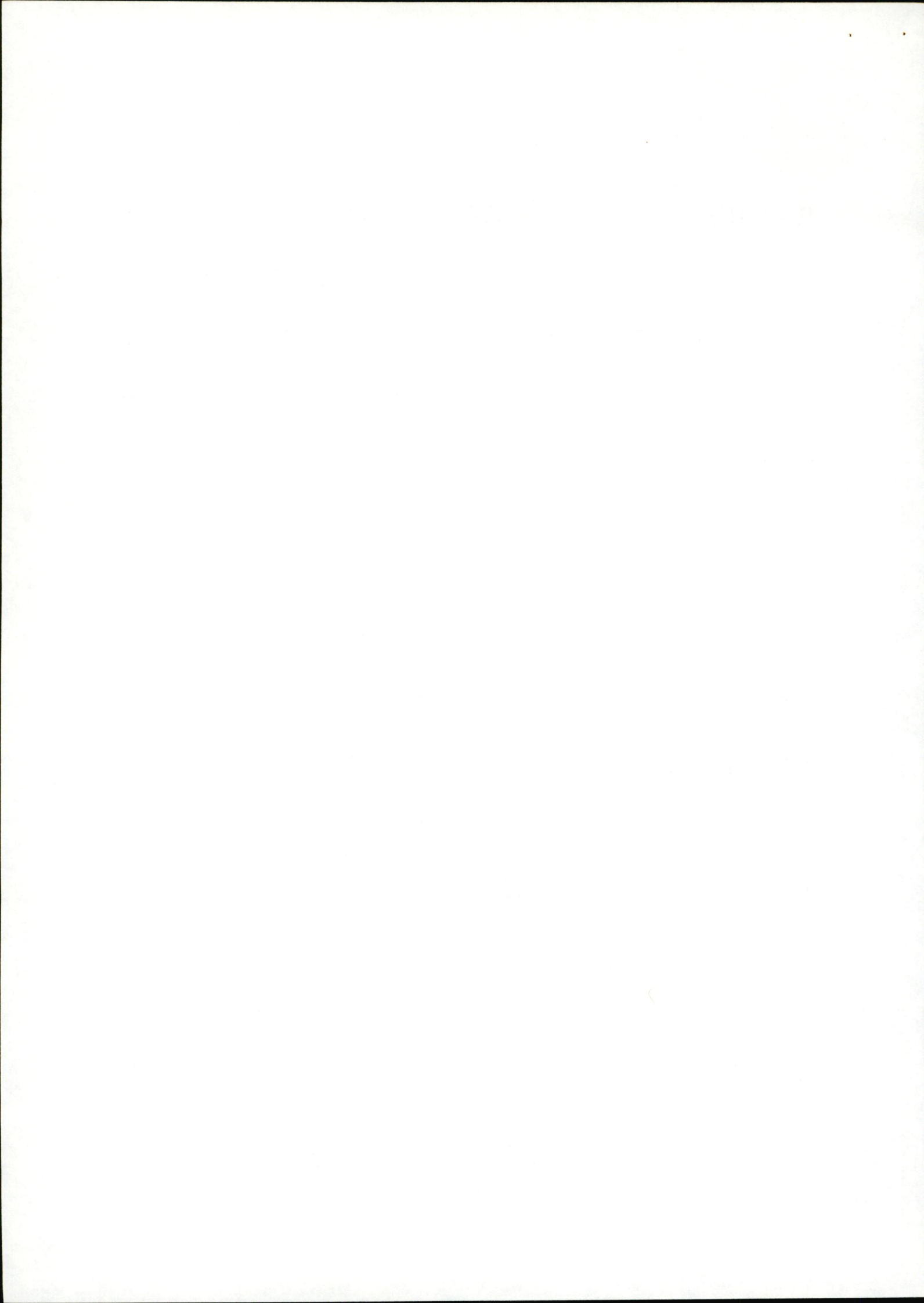
THIS OVERLAP OF RESPONSIBILITY IS AMBIGUOUS, CONFUSING AND WILL BE REMOVED BY THIS BILL.

THE BILL PROVIDES THAT THE POLICE BOARD WILL NO LONGER HAVE GENERAL STATUTORY RESPONSIBILITY FOR THE IMPROVEMENT OF THE EFFICIENCY AND PERFORMANCE OF THE POLICE SERVICE. THAT WILL BE THE COMMISSIONER'S CLEAR ROLE.



RATHER, THE POLICE BOARD'S FUNCTIONS WILL BE CHANGED TO ALLOW IT TO CONCENTRATE ON ITS PRIMARY RESPONSIBILITIES: SENIOR POLICE PROMOTIONS, SUCCESSION PLANNING AND CAREER DEVELOPMENT.

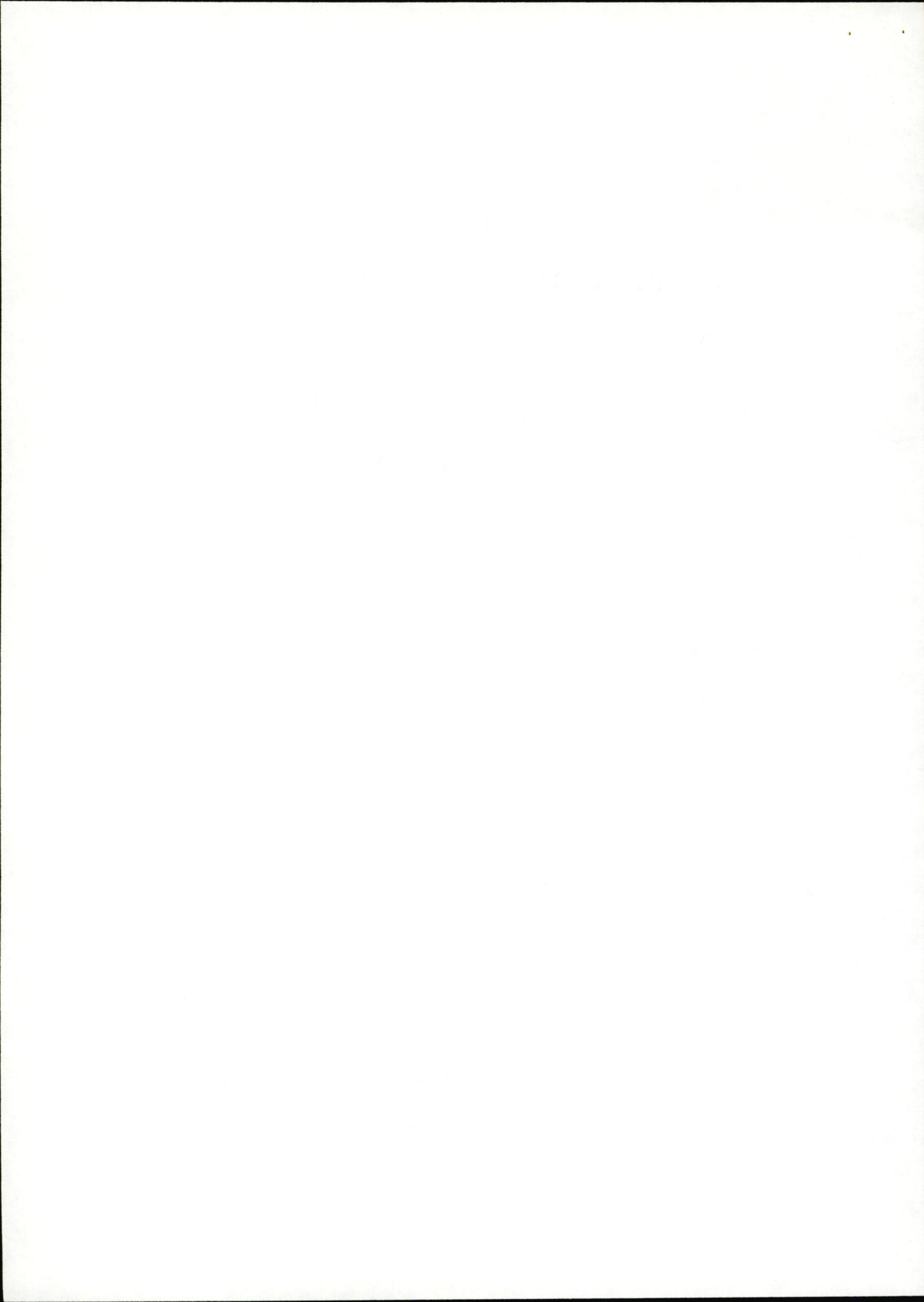
IT WILL ALSO BE RESPONSIBLE FOR CONTINUING THE GOVERNMENT'S TREMENDOUS RECORD IN THE FIELD OF ENHANCED TRAINING AND EDUCATION PROGRAMS FOR THE POLICE SERVICE AS A WHOLE.



THE BOARD WILL RETAIN ITS CORE ROLE OF SAFEGUARDING THE INTEGRITY OF SENIOR APPOINTMENTS AND OF EQUIPPING OFFICERS WITH THE SKILLS AND CAPACITIES TO COPE WITH THE CHANGES OF THE FUTURE.

GENERAL MANAGEMENT AND POLICY RESPONSIBILITY WILL BE REALLOCATED TO THE COMMISSIONER AND TO THE MINISTRY FOR POLICE RESPECTIVELY.

AS A RESULT OF THE BOARD'S CHANGED ROLE, THE POSITION OF INSPECTOR GENERAL WILL BE MOVED TO THE MINISTRY FOR POLICE. HE WILL STILL RETAIN POWERS TO ENTER POLICE PREMISES, EXAMINE DOCUMENTS AND SEEK



INFORMATION FROM MEMBERS OF THE POLICE SERVICE.

THE INSPECTOR GENERAL HAS RECENTLY COMPLETED A REVIEW OF THE PROFESSIONAL RESPONSIBILITY COMMAND. THIS WILL BE THE CATALYST FOR SIGNIFICANT REFORM. I ANTICIPATE SIMILAR REVIEWS OF OTHER COMMANDS WITH A VIEW TO GENERATING CHANGE.

THE BOARD WILL BE ABLE TO UNDERTAKE REVIEWS, MAKE ITS OWN REPORTS OR RECOMMENDATIONS TO THE MINISTER ON ANY MATTER, INCLUDING THE INTEGRITY OF POLICE OFFICERS. THE MINISTER WILL ALSO

BE ABLE TO REFER ANY MATTER TO THE BOARD FOR ITS CONSIDERATION.

THIS IS AN IMPORTANT SAFEGUARD FOR THE BOARD'S TRADITIONAL ROLE IN PRESERVING THE INTEGRITY OF SENIOR POLICE APPOINTMENTS.

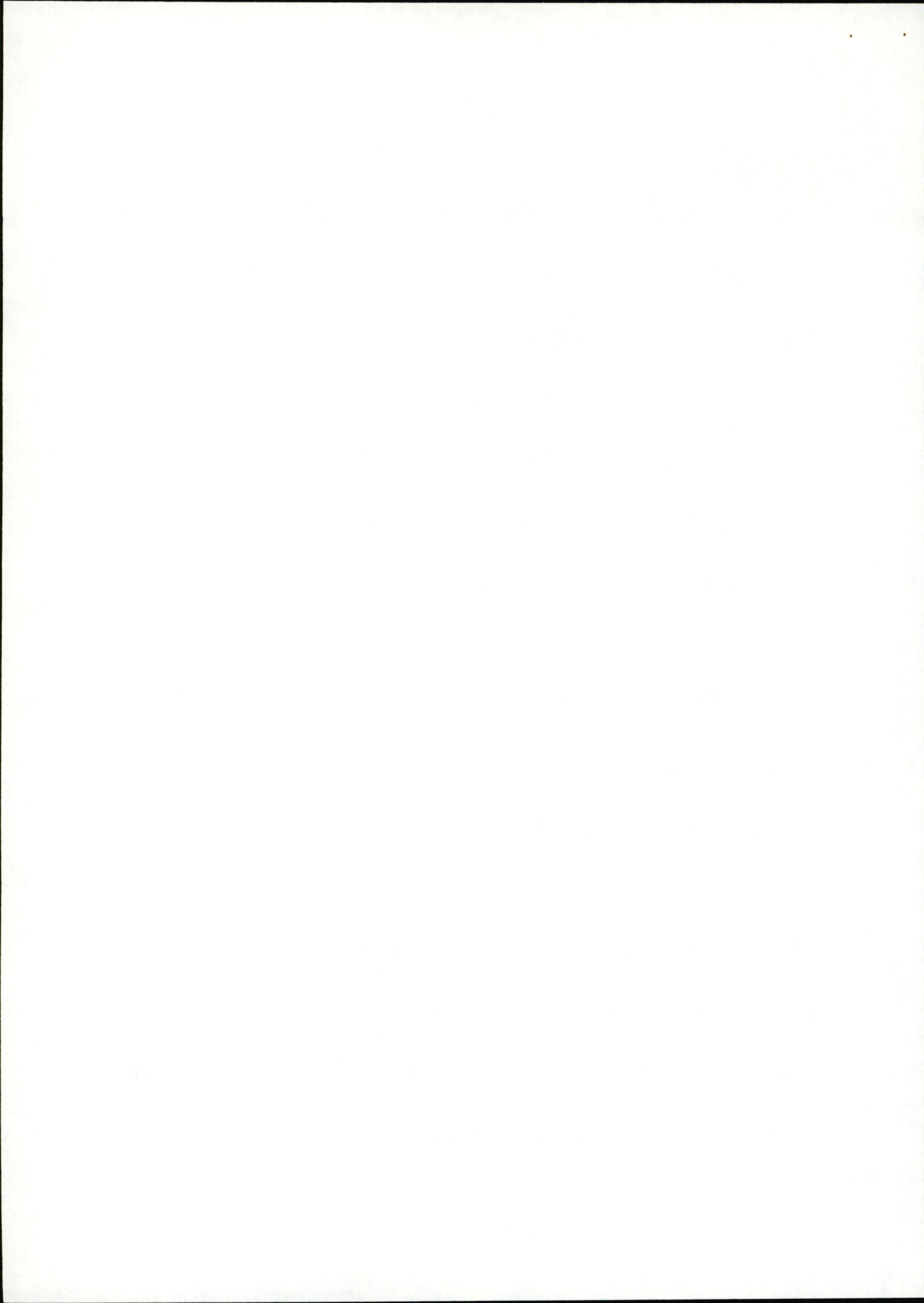
MR PRESIDENT,

THE POLICE BOARD WILL, IN FUTURE, CONSIST OF A PART-TIME CHAIRMAN, UP TO 4 PART-TIME MEMBERS, THE COMMISSIONER OF POLICE, AND THE DIRECTOR GENERAL OF THE MINISTRY FOR POLICE.

AN IMPORTANT CHANGE TO THE OPERATION OF THE BOARD IS THAT THE COMMISSIONER AND DIRECTOR GENERAL WILL NOT BE DELIBERATIVE MEMBERS OF THE BOARD. THEY MAY ALSO BOTH OR EITHER BE EXCLUDED FROM BOARD MEETINGS ON THE VOTE OF THE OTHER MEMBERS OF THE BOARD.

THIS WILL ENHANCE THE INDEPENDENCE OF THE BOARD AND PREVENT ITS DOMINATION BY FULL-TIME OFFICIALS.

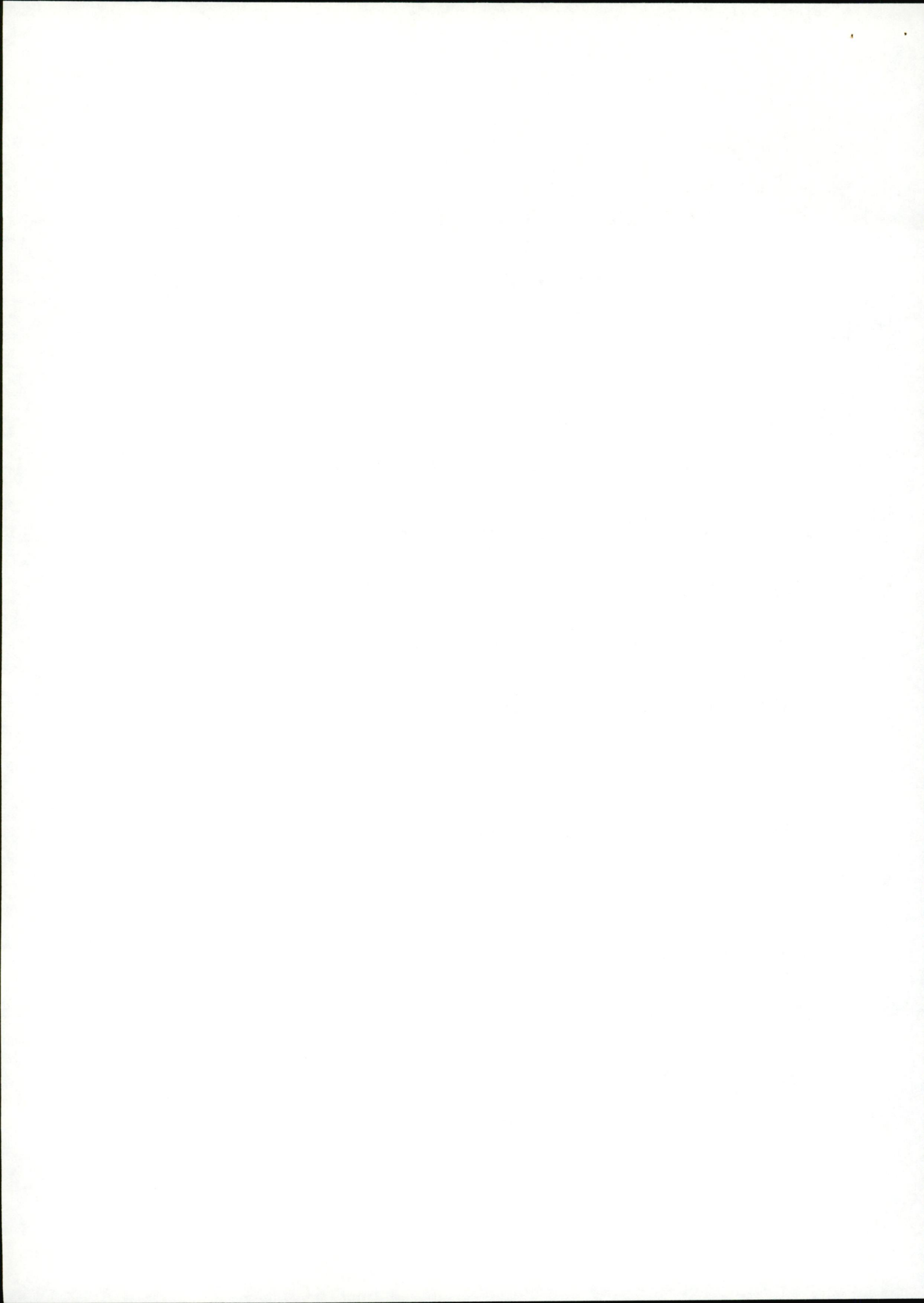
AT THE SAME TIME, TO ALLOW THE BOARD TO BE ASSISTED BY THE EXPERTISE AND KNOWLEDGE OF THE COMMISSIONER AND DIRECTOR GENERAL FROM BOARD MEETINGS,



THE BILL PROVIDES BOTH WITH A RIGHT TO BE HEARD AND FOR NOTICE TO BE GIVEN OF EACH MEETING.

THE BILL BRINGS FORWARD MACHINERY PROVISIONS RELATING TO THE OPERATION OF THE BOARD, WITH MODIFICATIONS TO REFLECT THE FACT THAT ITS STAFF ARE MEMBERS OF THE MINISTRY FOR POLICE.

GIVEN THE CHANGE IN THE BOARD'S RESPONSIBILITIES, IT IS APPROPRIATE THAT A NEW BOARD BE CONSTITUTED. SUBJECT TO THE PASSAGE OF THE BILL, I HOPE TO SHORTLY BE IN A POSITION TO MAKE AN

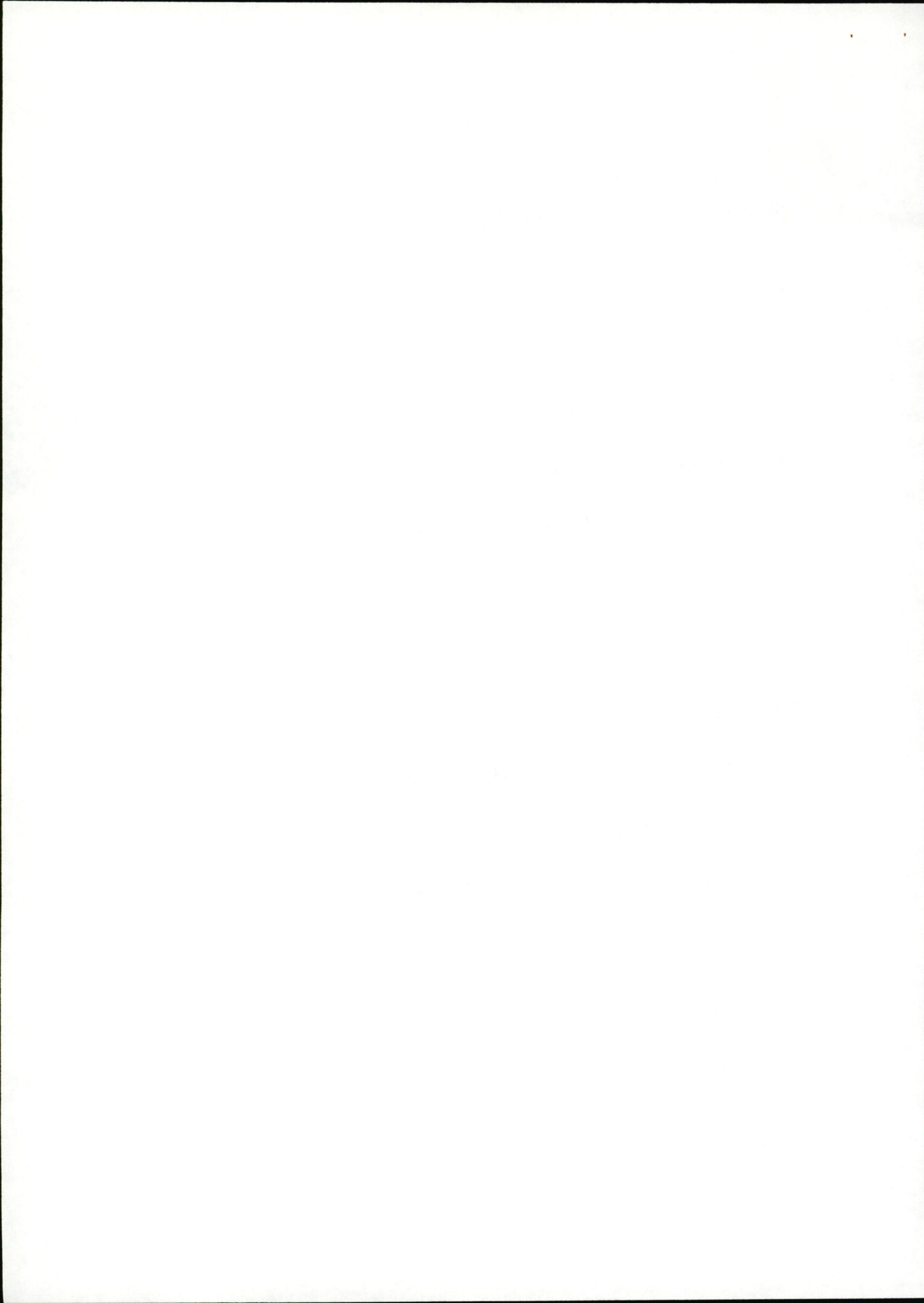


ANNOUNCEMENT OF THE COMPOSITION OF THE BOARD.

HONOURABLE MEMBERS CAN BE ASSURED THAT APPOINTMENTS TO THE BOARD WILL CONTINUE TO BE OF THE HIGHEST CALIBRE AND INTEGRITY.

MR PRESIDENT,

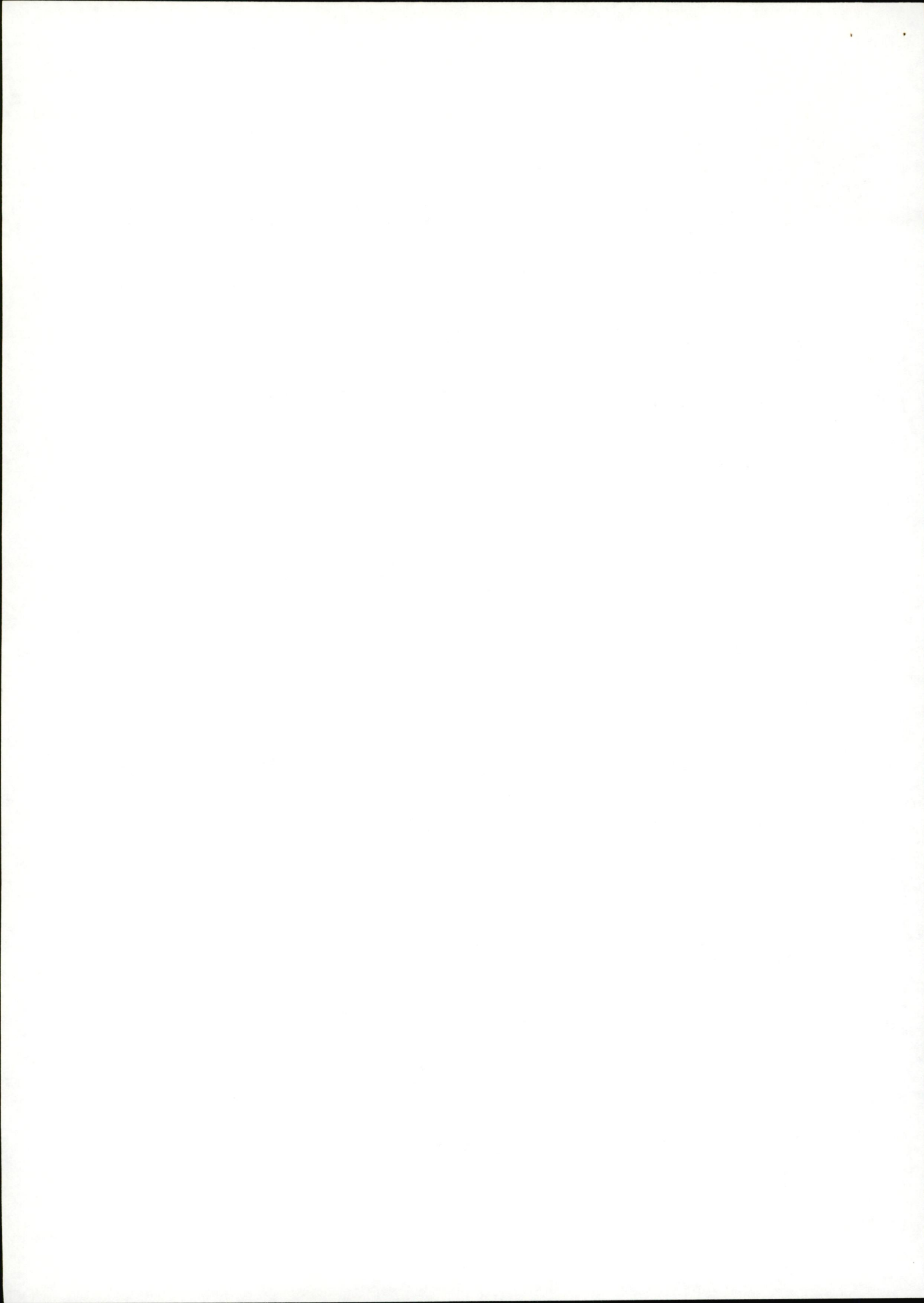
ONE OF THE PRIMARY OBJECTIVES OF THIS IMPORTANT BILL IS TO PUT THE RELATIONSHIP BETWEEN THE MINISTER FOR POLICE AND THE POLICE COMMISSIONER ON THE SAME FOOTING AS OTHER MINISTERS AND THEIR CHIEF EXECUTIVE OFFICERS. I HAVE ALREADY OUTLINED WHY THIS MUST BE DONE.



THE COMMISSIONER OF POLICE WILL ENTER INTO AN EMPLOYMENT CONTRACT WITH THE MINISTER, SUPPORTED BY A PERFORMANCE AGREEMENT LIKE OTHER DEPARTMENTAL HEADS.

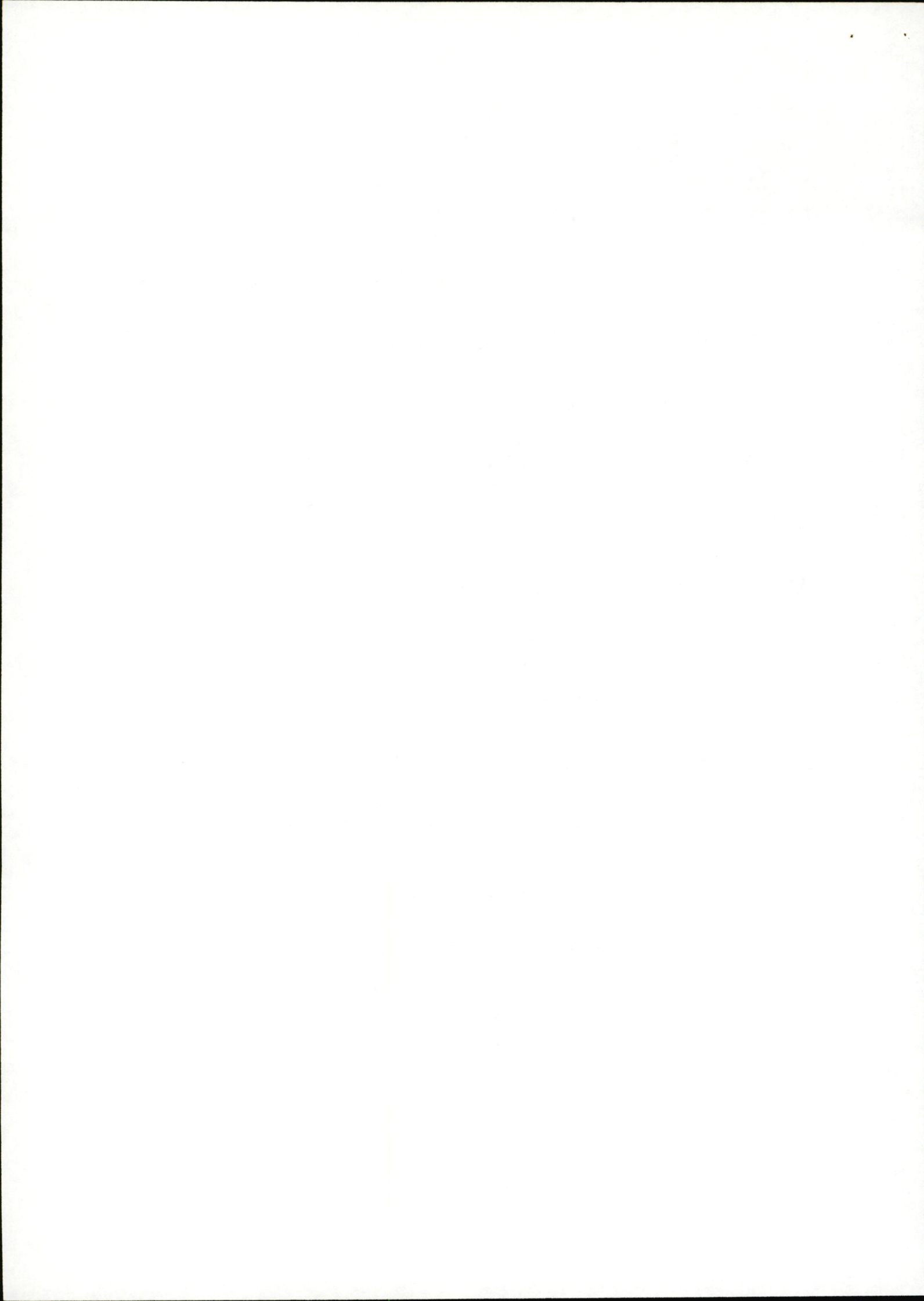
THIS RECOGNISES THE CHANGING NATURE OF THE POLICE SERVICE, THE NEED FOR MODERN MANAGEMENT PRACTICES, AND THE MINISTER'S RESPONSIBILITY TO THE PEOPLE THROUGH THE PARLIAMENT.

THE BILL ALSO PROVIDES THAT THE COMMISSIONER WILL BE APPOINTED BY THE GOVERNOR FOR A RENEWABLE 5 YEAR TERM WITH THE APPOINTMENT SUBJECT TO THE



INDEPENDENT SCRUTINY OF THE
PARLIAMENTARY COMMITTEE ON THE ICAC.
THIS GIVES THE PARLIAMENT AND PEOPLE OF
NSW ADDED ASSURANCES THAT THE MAXIMUM
DEGREE OF SCRUTINY IS APPLIED TO THE
INTEGRITY OF ANY PROPOSED APPOINTMENT
AS COMMISSIONER.

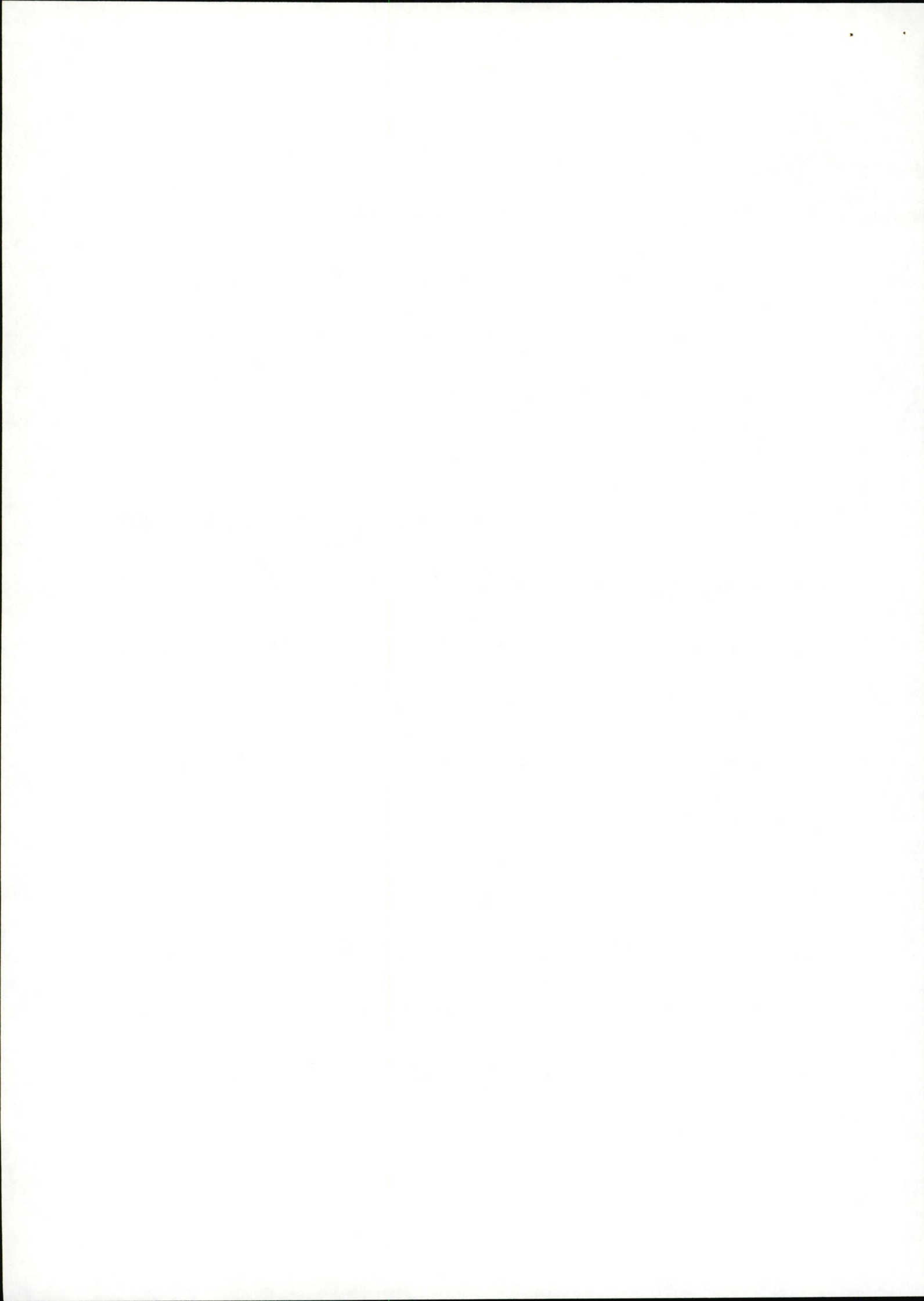
THE BILL BRINGS THE PROCEDURE FOR
REMOVING A COMMISSIONER INTO LINE WITH
THAT APPLYING TO OTHER CEOS AND
COMMISSIONERS ELSEWHERE IN AUSTRALIA,
IE, RECOMMENDATION TO THE GOVERNOR-IN-
COUNCIL BY THE MINISTER.



HOWEVER, THE GOVERNMENT READILY ACKNOWLEDGES THERE ARE SOME SPECIAL CONSIDERATIONS APPLYING TO THE POSITION OF POLICE COMMISSIONER.

THEREFORE, TO PREVENT HASTY OR INAPPROPRIATE ACTION BY A MINISTER, THE WRITTEN CONCURRENCE OF THE POLICE BOARD WILL BE REQUIRED BEFORE A COMMISSIONER CAN BE REMOVED FROM OFFICE.

THE RETIREMENT PROVISIONS RELATING TO A COMMISSIONER HAVE BEEN MODERNISED TO BRING THEM INTO LINE WITH PUBLIC SECTOR PRACTICE.

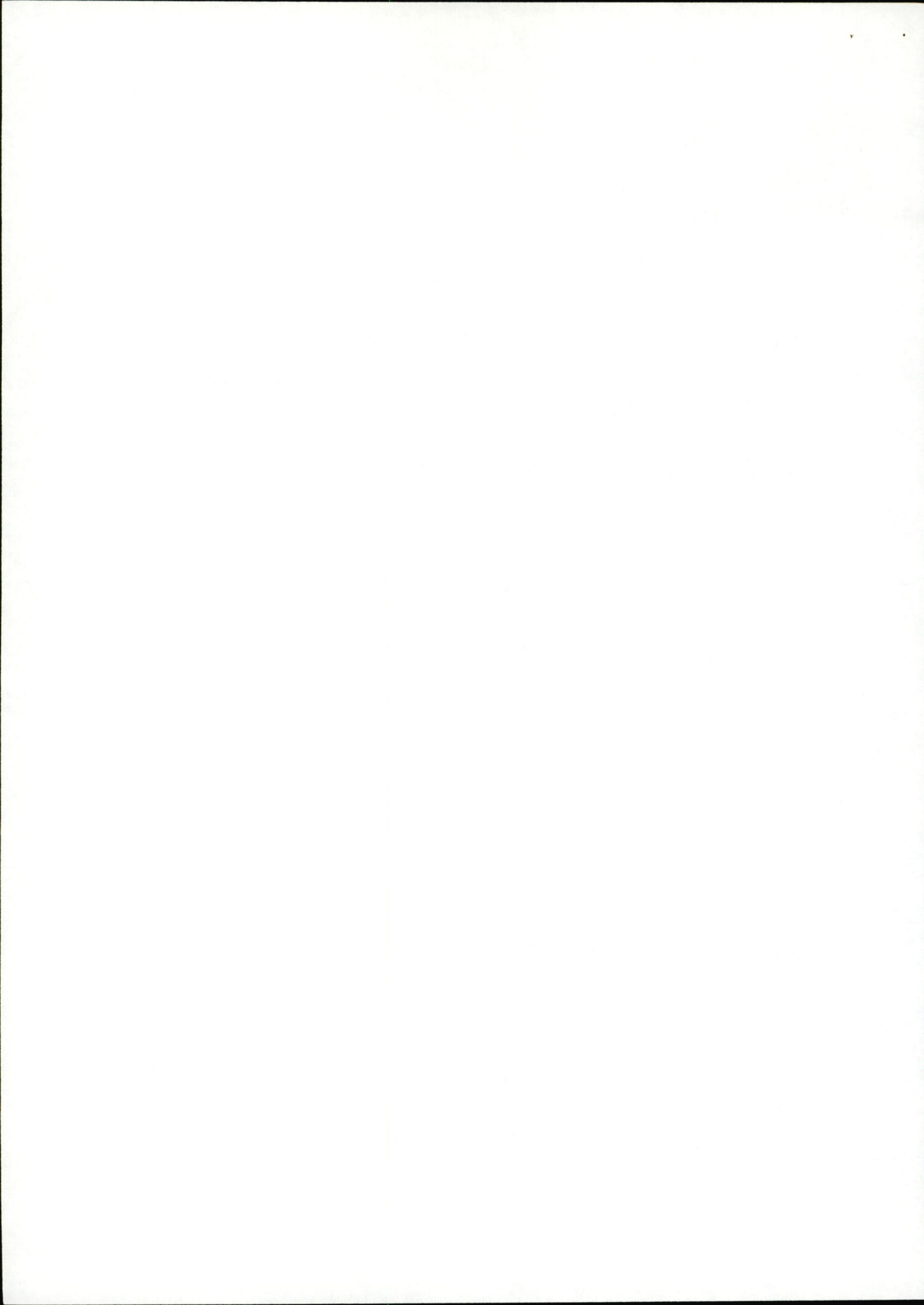


MR PRESIDENT,

THE BILL PROVIDES FOR THE DIRECT APPOINTMENT OF THE CURRENT COMMISSIONER FOR A FIVE YEAR TERM.

HONOURABLE MEMBERS WILL NOTE THAT THE CONTRACT AND REMOVAL PROVISIONS OF THE BILL WILL APPLY IMMEDIATELY TO THE CURRENT COMMISSIONER AND HIS SUCCESSORS.

COMMISSIONER LAUER AND THE POLICE BOARD UNDERSTAND THE NEED FOR CHANGE AND SUPPORT THE GOVERNMENT'S REFORMS. INDEED, STEPS HAVE BEEN TAKEN TO

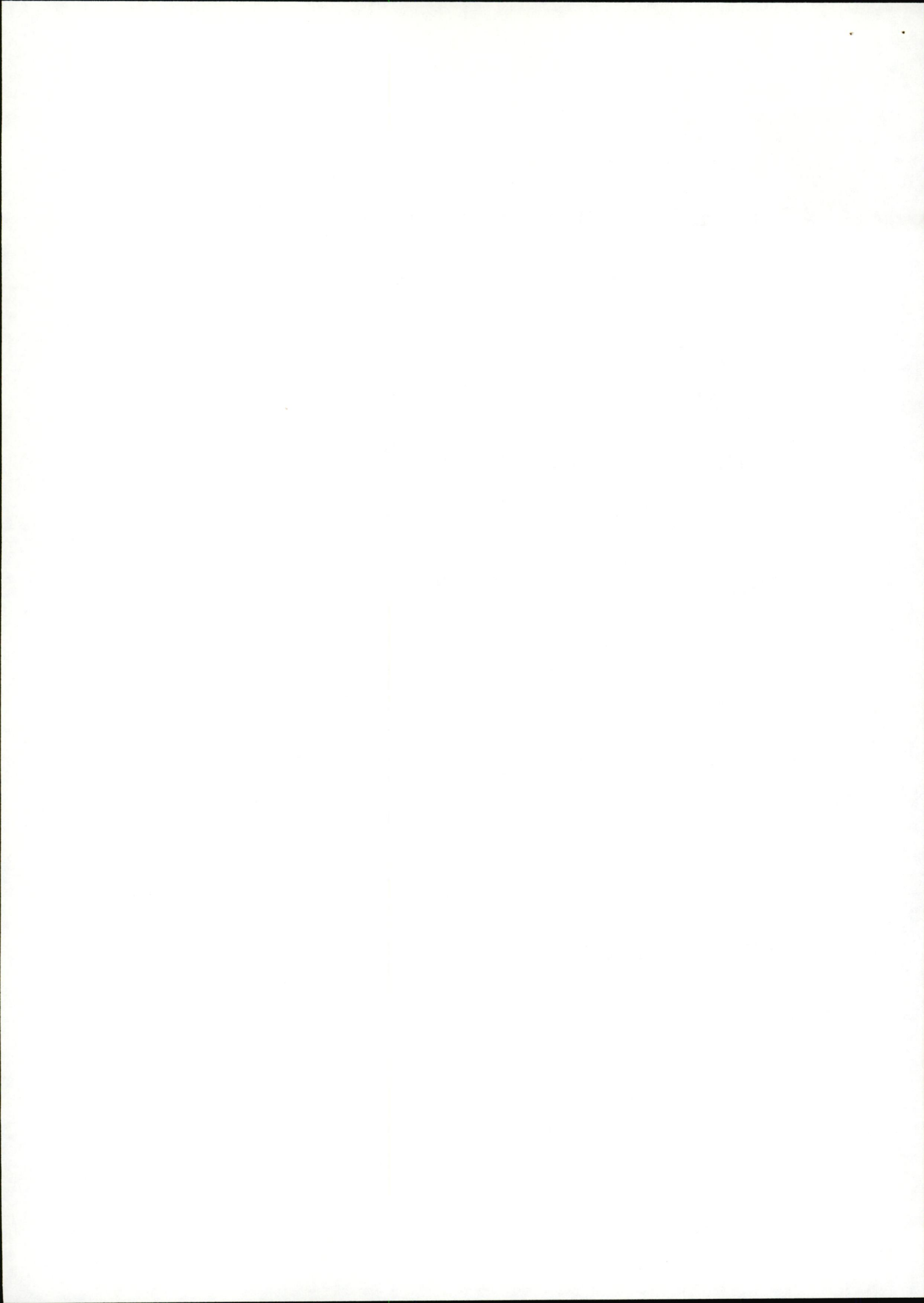


ADMINISTRATIVELY PUT IN PLACE THE BASIS FOR THE CURRENT REFORMS.

THE MINISTRY FOR POLICE HAS BEEN ESTABLISHED AND IS OPERATING EFFECTIVELY AS AN INDEPENDENT SOURCE OF ADVICE AND OPINION TO ME AS MINISTER.

MR PRESIDENT,

THE RE-ORGANISATION OF RESPONSIBILITIES WITHIN THE POLICE PORTFOLIO WILL ENHANCE ACCOUNTABILITY AND IMPROVE COMMUNICATION.



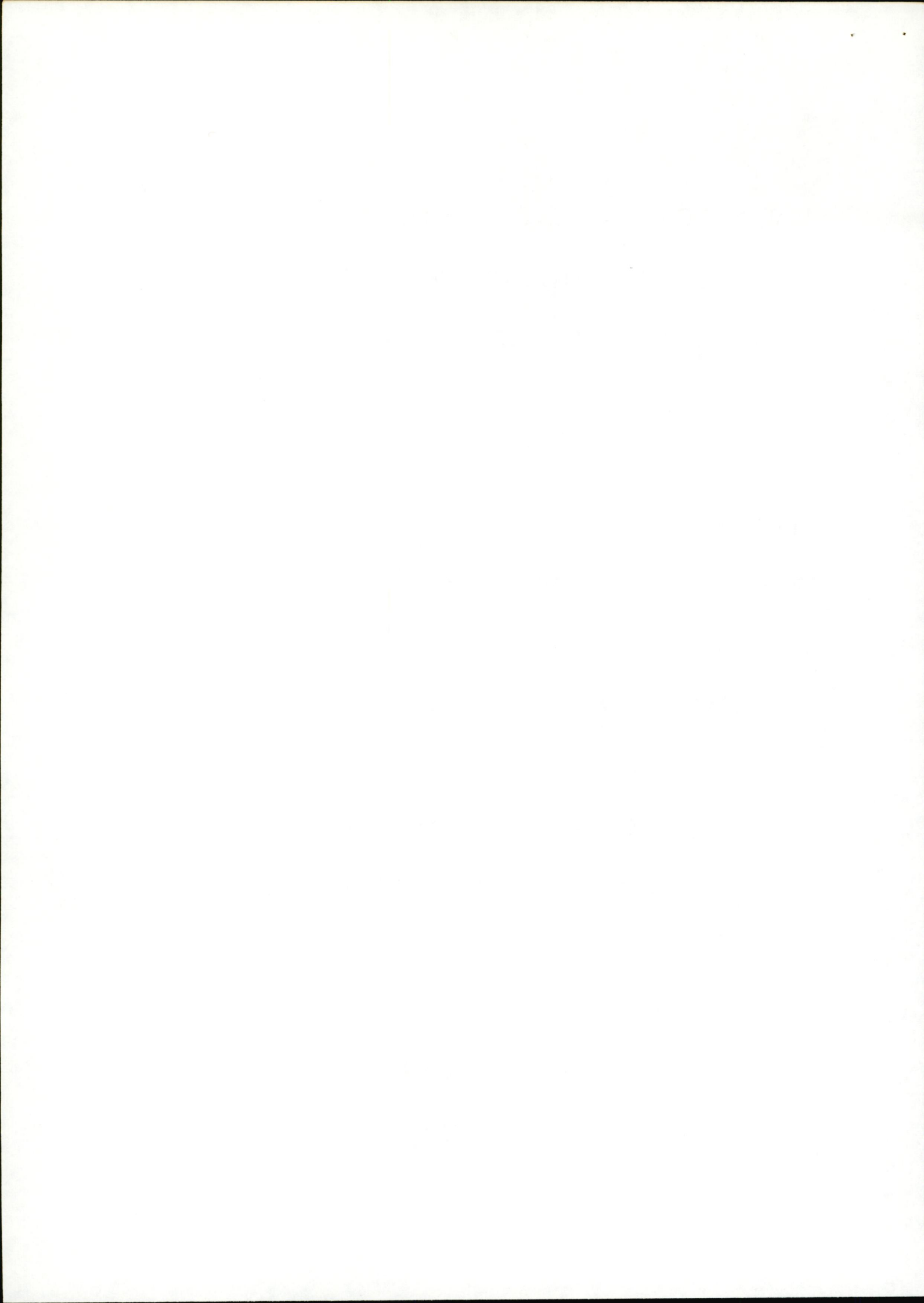
I WILL BE TABLING DETAILED EXPLANATORY NOTES ON THE BILL FOR THE INFORMATION OF HONOURABLE MEMBERS AT THE CONCLUSION OF MY SPEECH.

MR PRESIDENT,

HONOURABLE MEMBERS CAN BE ASSURED THAT THE GOVERNMENT'S REFORM AGENDA WILL NOT STOP WITH THIS BILL.

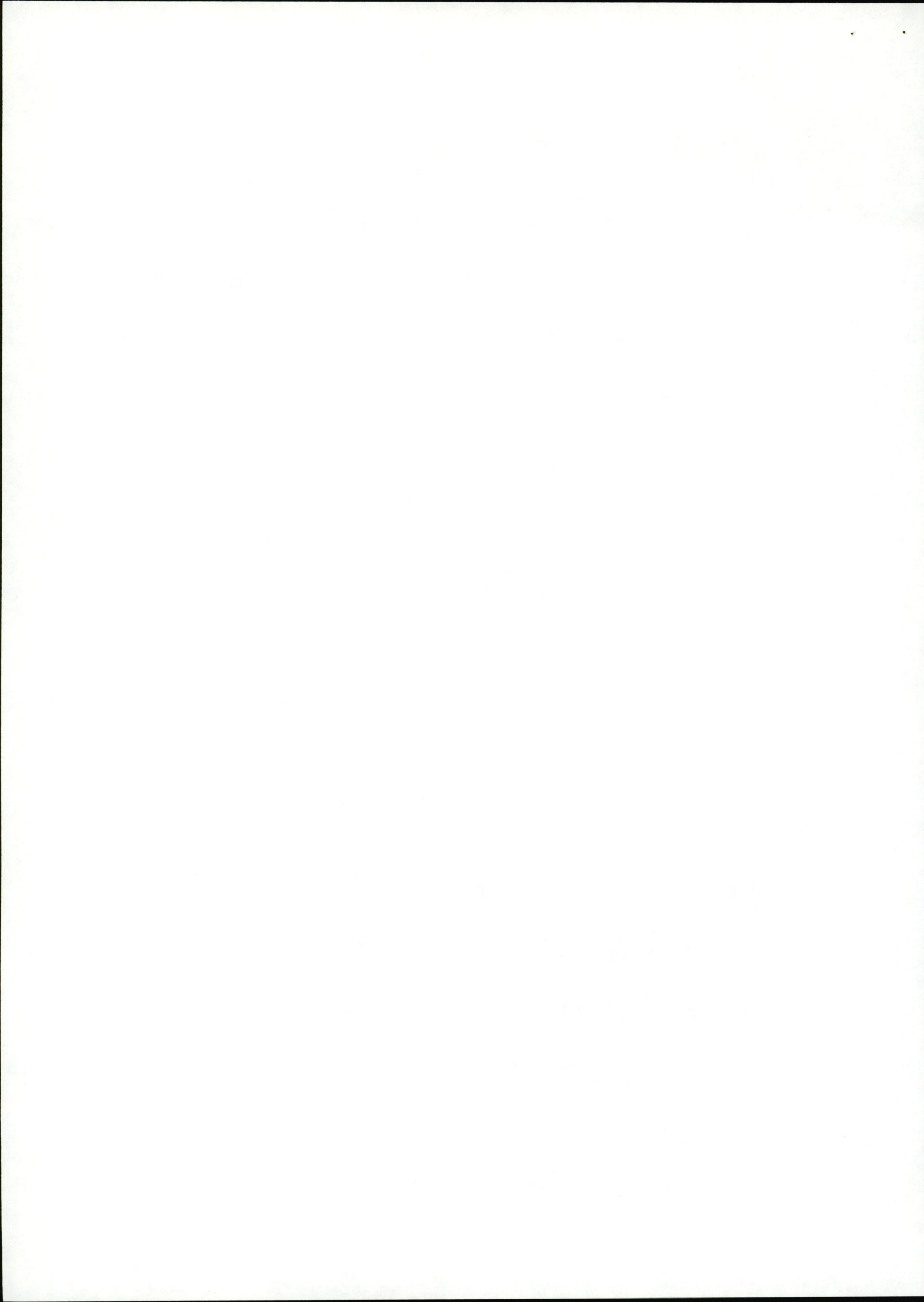
I HAVE ALREADY FORESHADOWED SIGNIFICANT REFORMS WITHIN THE POLICE SERVICE ITSELF.

IN THE NEXT FOUR DAYS, I EXPECT TO BE IN A POSITION TO ANNOUNCE DETAILS OF THIS NEXT STAGE OF THE REFORM PROCESS.



ON THAT OCCASION, AMONGST OTHER INITIATIVES AS PART OF OUR POLICING 2000 VISION FOR THE FUTURE, I WILL BE ANNOUNCING DETAILS OF:

- A NEW SENIOR COMMAND STRUCTURE FOR THE POLICE SERVICE;
- NEW POLICE INTERNAL INVESTIGATION PROCEDURES;
- DETAILS OF THE NEW PROFESSIONAL RESPONSIBILITY COMMAND STRUCTURE ARISING OUT OF THE RECENTLY COMPLETED INSPECTOR GENERAL'S REVIEW;

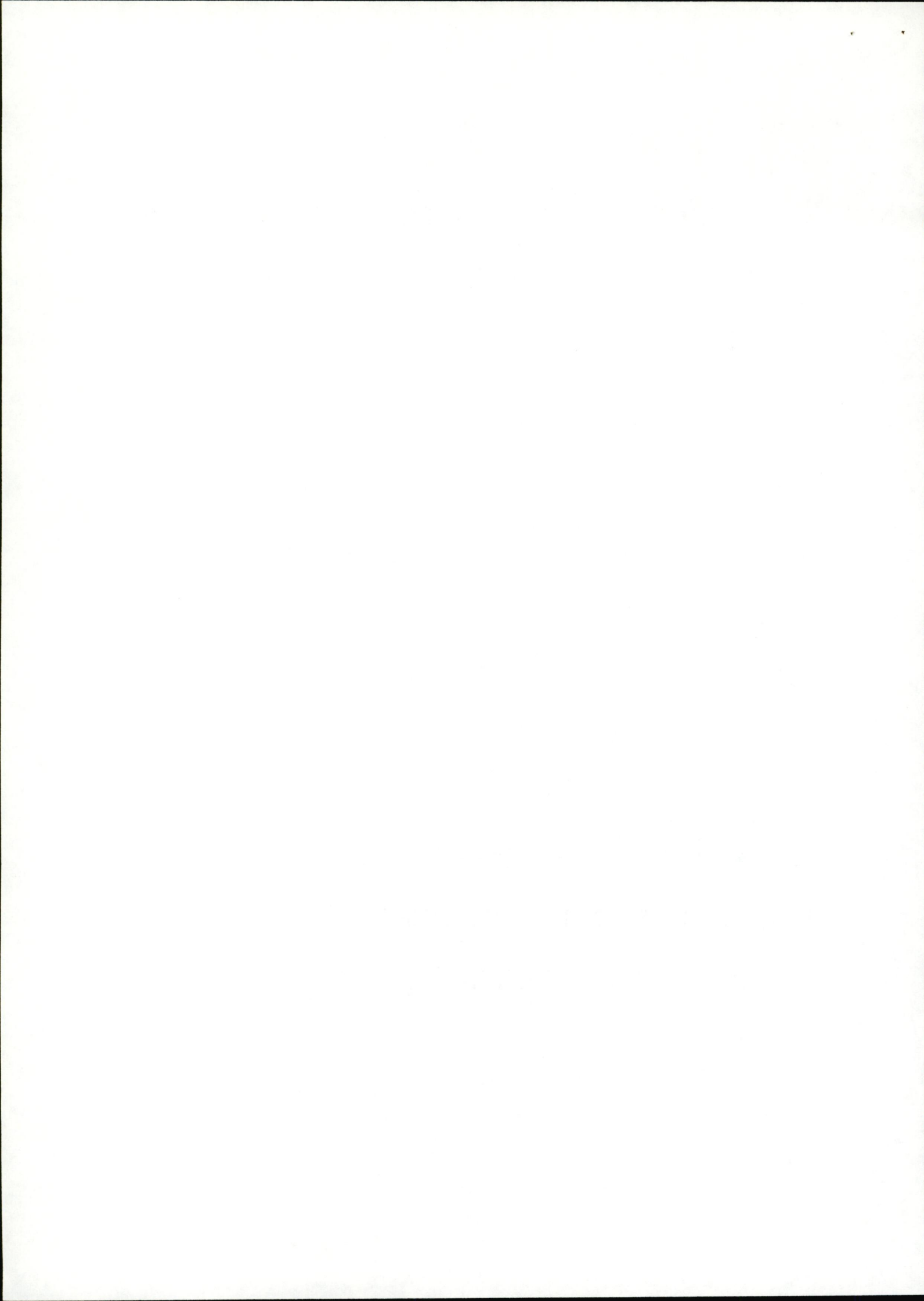


- OTHER REFORMS TO ENHANCE THE ACCOUNTABILITY OF POLICE COMMANDERS AT ALL LEVELS.

MR PRESIDENT,

THE GOVERNMENT IS DETERMINED TO MAINTAIN THE MOMENTUM OF REFORM OF THE POLICE SERVICE. THE AIM OF OUR COMPREHENSIVE AGENDA IS TO IMPROVE ACCOUNTABILITY AND EFFECTIVENESS.

AS I SAID EARLIER, THIS BILL IS THE START OF THE MOST SIGNIFICANT REFORM OF POLICING IN THIS STATE SINCE THE LUSHER REPORT.



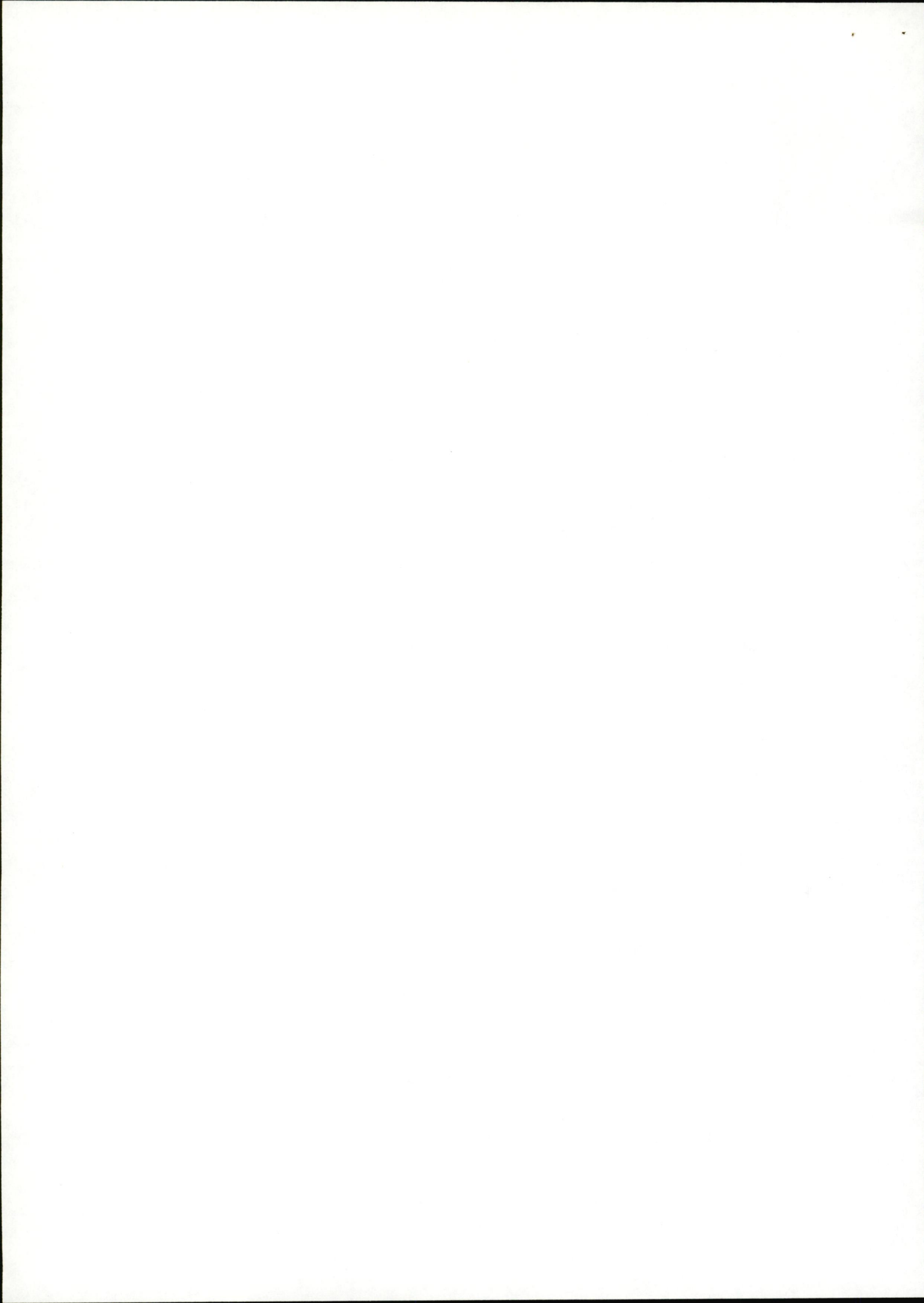
**THE POLICE SERVICE (MANAGEMENT)
AMENDMENT BILL PROVIDES THE LEGISLATIVE
FRAMEWORK OF POLICING 2000.**

**THE POLICING 2000 VISION WILL ENSURE THE
POLICE SERVICE IS:**

- **RESPONSIVE TO THE GOVERNMENT'S
COMMITMENT TO HIGH QUALITY
CUSTOMER SERVICE;**

- **RESPONSIVE TO CHANGING NEEDS AND
COMMUNITY EXPECTATIONS;**

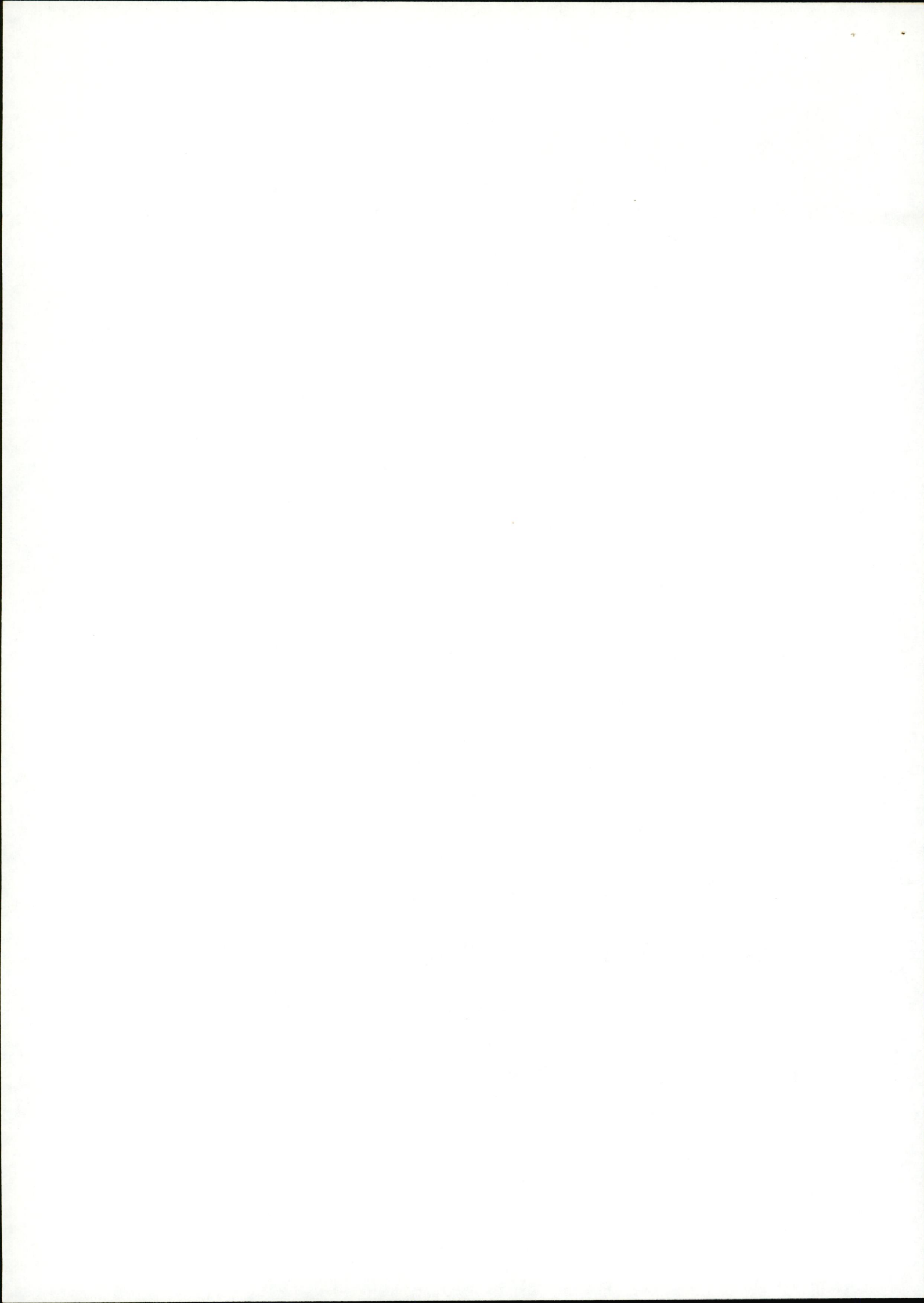
- **PROPERLY ACCOUNTABLE TO
GOVERNMENT AND THE PEOPLE;**



- MANAGED COMPETENTLY AND EFFICIENTLY; AND
- CAPABLE OF FLEXIBLE RESPONSE NO MATTER WHAT THE DEMANDS.

I AM SURE HONOURABLE MEMBERS WILL AGREE THAT THE OFFICER ON THE BEAT WHO DOES A TOUGH AND OFTEN THANKLESS JOB, DESERVES THE BEST POSSIBLE COMMANDERS.

THE CHALLENGE IS TO ENSURE THAT THE OFFICER ON THE BEAT IS COMMANDED IN A THOROUGHLY PROFESSIONAL AND ACCOUNTABLE MANNER.



THIS BILL STARTS THE PROCESS OF
REVITALISING POLICE COMMAND BY CLEARLY
DEFINING RESPONSIBILITY AT THE MOST
SENIOR LEVELS OF THE POLICE PORTFOLIO.

MR PRESIDENT,

I COMMEND THE BILL TO THE HOUSE.

SECOND PRINT

**POLICE SERVICE (MANAGEMENT) AMENDMENT
BILL 1993**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Police Service Act 1990 No. 47
4. Consequential amendment and repeal of other Acts

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT 1990

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS

This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly.

NEW SOUTH WALES



Act No. , 1993

An Act to amend the Police Service Act 1990 with respect to the Police Board and the Commissioner of Police; and for other purposes.

Police Service (Management) Amendment 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Police Service (Management) Amendment Act 1993.

5 Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Police Service Act 1990 No. 47

3. The Police Service Act 1990 is amended as set out in Schedule 1.

10 Consequential amendment and repeal of other Acts

4. (1) The Acts specified in Schedule 2 are amended as set out in that Schedule.

(2) The Police Service (Inspector General) Act 1991 (1991 No. 62) is repealed.

15 SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT 1990

(Sec. 3)

(1) Parts 3 and 4:

Omit the Parts, insert instead:

20 PART 3—THE POLICE BOARD OF NEW SOUTH WALES

Constitution of the Board

15. (1) There is constituted by this Act the Police Board of New South Wales.

25 (2) The Police Board is a body corporate.

(3) The Police Board is a statutory body representing the Crown.

Board subject to Ministerial control

30 16. The Police Board is, in the exercise of its functions, subject to the control and direction of the Minister.

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

Composition and procedure of the Board

17. (1) The Police Board is to consist of:
- (a) the Chairperson of the Police Board; and 5
 - (b) the Commissioner; and
 - (c) the Director-General of the Ministry for Police; and
 - (d) at least 2 but not more than 4 part-time members appointed by the Governor.

(2) Although the Commissioner and the Director-General are members of the Police Board, they do not have a vote at any meeting of the Board. They each have a right to be heard at any meeting of the Police Board but both or either of them may be excluded from any meeting if the Board so directs. 10

(3) The Police Board must disclose in its annual report whether the Commissioner or Director-General was excluded from any meeting of the Board during the reporting year and, if so, the number of occasions on which each of them was so excluded. The Chairperson of the Police Board is to give the Minister written notice of any such exclusion as soon as practicable after it occurs. 15 20

(4) Schedule 1 has effect with respect to the members and procedure of the Police Board.

Appointment of Chairperson of the Board

18. (1) The Governor may appoint a person as Chairperson of the Police Board. 25

(2) The appointment of the Chairperson is to be on a part-time basis.

(3) Neither the Commissioner nor the Director-General of the Ministry for Police is eligible to be appointed as Chairperson of the Police Board. 30

Functions of the Board

19. The Police Board has the following functions:

- (a) the functions conferred on it by this Act in connection with the employment of members of the Police Service Senior Executive Service and other members of the Police Service; 35
- (b) the supervision and promotion of career development and training for all members of the Police Service;

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990—*continued*

- 5 (c) after consultation with the Minister, the undertaking of reviews it considers appropriate of the procedures of the Police Service designed to safeguard the integrity of the Police Service;
- (d) the making of reports or recommendations to the Minister:
- 10 (i) on any matter referred to it by the Minister; or
- (ii) on any matter arising from the exercise of its functions or, after consultation with the Minister, on any other matter it considers appropriate;
- (e) such other functions as are conferred or imposed on it by or under this or any other Act.

15 **Staff of the Board**

20. (1) The staff of the Police Board is to be employed under Part 2 of the Public Sector Management Act 1988.

20 (2) The Police Board may, with the approval of the Minister, arrange for the use of the services of any staff (by secondment or otherwise) or facilities of the Police Service, a government department or a public authority.

Delegation by the Board

25 21. (1) The Police Board may delegate to any person any of the functions of the Police Board, other than this power of delegation.

(2) The Police Board must consult the Minister about any proposed delegation by the Board under this section.

Powers of entry and inspection

30 22. (1) An authorised person may, for the purpose of exercising the Police Board's functions, enter any police premises at any time.

35 (2) The authorised person may, for that purpose, call for and inspect all or any police records, documents, files or other matter, whether of the same or a different kind or nature, on those premises, and question and seek information from any member of the Police Service.

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

(3) A member of the Police Service who fails to comply with any requirement made of the member under this section or to give all assistance and co-operation to the authorised person is guilty of an offence. 5

Maximum penalty: 20 penalty units or 6 months imprisonment, or both.

(4) An authorised person is to be issued with a certificate of authority under this section signed by the Chairperson of the Board. 10

(5) In this section, “authorised person” means a member of the Police Board, or other person, authorised by the Chairperson of the Police Board for the purposes of this section. 15

Annual report of the Board

23. (1) As soon as practicable after 30 June (but on or before 31 December) in each year, the Police Board is required to prepare and forward to the Minister a report on its work and activities for the 12 months ending on 30 June in that year. 20

(2) The Minister is required to lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

PART 4—THE COMMISSIONER OF POLICE 25

Appointment of Commissioner

24. (1) The Commissioner of Police is to be appointed by the Governor on the recommendation of the Minister.

(2) It does not matter whether the person appointed is or is not already a member of the Police Service. 30

(3) Before a person is appointed:

- (a) the Police Board is required to invite applications for appointment to the office from any persons wishing to apply; and
- (b) the Minister is required to obtain and have regard to the recommendation of the Police Board in relation to the appointment; and 35

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

- 5 (c) the Minister is required to obtain and have regard to an official report (referred to in section 3 (3)) on the previous employment and conduct of any police officer proposed to be appointed or (if the person proposed to be appointed is not a police officer) to a similar report; and
- 10 (d) the Minister is required to request and have regard to a report under this section by the Parliamentary Joint Committee known as the Committee on the Independent Commission Against Corruption of its examination of the integrity of the person proposed to be appointed.
- 15 (4) In deciding to make a recommendation in relation to an appointment under this section, the Police Board must, from among the applicants eligible for appointment, select the applicant who has, in the opinion of the Police Board, the greatest merit.
- 20 (5) However, the Police Board is not required to invite applications for appointment if it decides to recommend the re-appointment of the person holding office as Commissioner.
- 25 (6) The Parliamentary Joint Committee has 14 days after it receives a request under subsection (3) (d) to report to the Minister and has a further 30 days (after the initial 14 days) to do so if it notifies the Minister within that 14 days that it requires more time to consider the matter. A request is to be in writing and may be withdrawn by the Minister at any time.
- 30 (7) Section 70 (Confidentiality) of the Independent Commission Against Corruption Act 1988 applies in respect of the exercise of the Parliamentary Joint Committee's functions relating to the appointment of a Commissioner in the same way as it applies in respect of the exercise of the Committee's functions relating to the appointment of the Commissioner for the Independent Commission Against Corruption.
- 35

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

Acting Commissioner

25. (1) The Minister may appoint a member of the Police Service recommended by the Police Board to act as Commissioner during the illness or absence of the Commissioner or during any vacancy in the office of Commissioner. 5

(2) Any such member, while acting as Commissioner, has all the functions of the Commissioner. 10

(3) The Minister may, at any time, terminate the appointment of any such member to act as Commissioner.

Term appointment of Commissioner

26. Subject to this Act, the Commissioner holds office for such period (not exceeding 5 years) as is specified in the Commissioner's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment. 15

Employment and remuneration of Commissioner

27. (1) The employment of the Commissioner is to be governed by a contract of employment between the Commissioner and the Minister. 20

(2) Sections 41–47, 59 and 61 (relating to employment and remuneration of executive officers) apply to the Commissioner in the same way as they apply to an executive officer. However, in the application of those sections a reference to the Police Board is to be read as a reference to the Minister. 25

Removal of Commissioner

28. (1) The Governor may remove the Commissioner from office on the recommendation of the Minister. 30

(2) The Governor, on the recommendation of the Minister:

(a) may declare the person so removed from office as Commissioner to be an unattached officer in the service of the Crown; and

(b) may revoke any such declaration. 35

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

(3) A recommendation of the Minister under this section may be made only if the recommendation is supported:

- 5 (a) by the Police Board; or
(b) by resolutions of both Houses of Parliament passed after the Police Board has been given an opportunity to consider the matter.

10 (4) While such a declaration remains in force, the person concerned is entitled to monetary remuneration and employment benefits as if the person had not been removed from office.

(5) If:

- 15 (a) the Commissioner is removed from office and such a declaration is not made; or
(b) a declaration that is made is revoked,

the person concerned ceases to be employed in the service of the Crown, unless appointed to another position in the service of the Crown.

20 (6) A declaration under this section, unless sooner revoked, is revoked on the date on which the term of office of the person as Commissioner would have expired.

25 (7) A person removed from office as Commissioner (except for misbehaviour after due inquiry) is entitled to the same compensation under section 53 as an executive officer removed from office as referred to in that section.

(8) The Commissioner may be removed from office only under this section.

Retirement of Commissioner

30 29. (1) The Commissioner may retire on or after reaching 55 years of age.

(2) The Commissioner is not required to retire on reaching 65 years of age.

35 (3) Nothing in this section affects the provisions of an Act relating to any superannuation scheme of which the Commissioner is a member. However, the Commissioner may not be retired under any such Act without the Commissioner's consent.

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

Vacation of office of Commissioner

30. (1) The office of Commissioner becomes vacant if the Commissioner: 5

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) is removed from office under section 28; or
- (d) retires from office under this or any other Act; or
- (e) resigns his or her office in writing addressed to the Minister. 10

(2) The retirement or resignation of a Commissioner does not take effect until:

- (a) the Minister accepts the retirement or resignation; or
- (b) the Commissioner has given the Minister at least 4 weeks' notice in writing of the day on which the Commissioner intends to retire or resign and the Commissioner is not on that day under official investigation for misbehaviour. 15

(3) The Commissioner is under official investigation for misbehaviour if the Minister so certifies with the concurrence in writing of the Chairperson of the Police Board. 20

Delegation by Commissioner

31. The Commissioner may delegate to another member of the Police Service any of the functions conferred or imposed on the Commissioner by or under this or any other Act, other than this power of delegation. 25

(2) Schedule 1 (**Provisions relating to the members and procedure of the Police Board**):

(a) Clause 1, definition of "part-time member": 30

Omit "other than the Commissioner or the Chairperson", insert instead "other than the Chairperson, Commissioner or Director-General of the Ministry for Police".

Police Service (Management) Amendment 1993

 SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
 1990—*continued*

- (b) After the definition of “part-time member” in clause 1, insert:

5 “**voting member**” means a member other than the
 Commissioner or the Director-General of the Ministry
 for Police.

- (c) At the end of clause 3, insert:

10 (2) Subject to this Schedule, the Chairperson holds office
 for such period (not exceeding 5 years) as is specified in the
 Chairperson’s instrument of appointment, but is eligible (if
 otherwise qualified) for re-appointment.

- (d) From clause 4, omit “A part-time Chairperson”, insert
 15 instead “The Chairperson” and omit “the part-time
 Chairperson”, insert instead “the Chairperson”.

- (e) Omit clause 5 (1) (f) and (i).

- (f) From clause 5 (1) (h), omit “a part-time”, insert instead
 “the” and omit “part-time” where secondly and thirdly
 occurring.

- 20 (g) From clause 7 (2), omit “a part-time Chairperson” wherever
 occurring, insert instead “the Chairperson”.

- (h) After clause 10, insert:

Notice of meetings

25 10A. All members are to be given notice of meetings of
 the Board by the Chairperson or by an officer of the Board
 authorised by the Chairperson.

- (i) Omit clause 11, insert instead:

Quorum

30 11. A quorum for a meeting of the Board is a majority of
 the voting members of the Board for the time being.

- (j) Omit clause 12, insert instead:

Presiding member

35 12. (1) The Chairperson or, in the absence of the
 Chairperson, a part-time member elected to chair the meeting
 by the voting members present is to preside at a meeting of
 the Board.

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

- (2) The person presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote. 5
- (k) Clause 13:
After “votes cast”, insert “by voting members”.
- (l) Clause 14:
From clause 14 (1), omit “those members”, insert instead “such of those members as are voting members”. 10
- (3) Schedule 2 (**Police Service Senior Executive Positions**):
Omit “Inspector General”.
- (4) Schedule 4 (**Savings, transitional and other provisions**):
- (a) At the end of clause 2 (1) of Part 1 (Savings and transitional regulations), insert: 15
the Police Service (Management) Amendment Act 1993.
- (b) Omit clause 14 (Application of s. 26).
- (c) At the end of the Schedule, insert:
- PART 6—PROVISIONS CONSEQUENT ON
ENACTMENT OF POLICE SERVICE
(MANAGEMENT) AMENDMENT ACT 1993** 20
- Definitions**
20. In this Part:
- “**amending Act**” means the Police Service (Management) Amendment Act 1993; 25
- “**appointed day**” means the day appointed for the commencement of Schedule 1 (1) to the amending Act.
- Police Board**
21. (1) The Police Board constituted under section 15 (as in force immediately before the substitution of that section by the amending Act) is a continuation of, and the same legal entity as, the Police Board constituted under that section (as so substituted). 30

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

5 (2) A person who, immediately before the appointed day, held office as a member of the Police Board ceases to hold that office on the appointed day. The person is eligible (if otherwise qualified) to be re-appointed, but is not entitled to any remuneration or compensation for so ceasing to hold that office.

10 (3) A delegation by the Police Board made under section 21 and in force immediately before the substitution of that section by the amending Act is taken to be a delegation under that section (as so substituted), but only to the extent that the Police Board continues to have the relevant function.

Commissioner of Police

15 22. (1) The person holding office as Commissioner immediately before the appointed day is taken to have been appointed as Commissioner on the appointed day for a period of 5 years or until the person reaches 65 years of age, whichever is the shorter period. However, if that person was
20 appointed for a term, the person is taken to have been appointed for the balance of that term.

25 (2) For the avoidance of doubt, the provisions of the amending Act (including the provisions relating to the Commissioner's contract of employment and the Commissioner's removal from office) apply to the Commissioner during the period of appointment under this clause.

30 (3) Until the Commissioner enters into a contract of employment, the Commissioner is entitled to remuneration at the rate payable to the Commissioner immediately before the appointed day.

35 (4) A delegation by the Commissioner made under section 31 and in force immediately before the substitution of that section by the amending Act is taken to be a delegation under that section (as so substituted).

Police Service (Management) Amendment 1993

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT 1990
—continued

Inspector General

23. (1) The person holding office as Inspector General in the Police Service immediately before the day appointed for the commencement of Schedule 1 (3) to the amending Act is taken to have been appointed, on that day, to the position of Inspector General in the Public Service (being a position in the Ministry for Police) for the balance of the term of office as Inspector General in the Police Service. 5
10

(2) The contract of employment of that person under section 41 is taken, on that day and pending a new contract of employment, to be a contract of employment entered into under section 42G of the Public Sector Management Act 1988. 15

(3) That person, or any other person who holds office as Inspector General, may exercise the functions of an authorised person under section 22 (Powers of entry and inspection) for the purposes of the Inspector General's functions. 20

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF
OTHER ACTS

(Sec. 4 (1))

Public Sector Management Act 1988 No. 33

Schedule 3B (Senior Executive Positions): 25

At the beginning of the positions relating to the Ministry for Police, insert the following position:

Inspector General

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

(1) Section 24A (Definitions): 30

After "1988" in the definition of "chief executive office holder", insert "or the Commissioner of Police".

Police Service (Management) Amendment 1993

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER
ACTS—*continued*

- (2) Schedule 1 (**Public offices**):
Omit “Commissioner of Police.”.
 - 5 (3) Schedule 3 (**Public offices**):
Omit from Part 2 “Chairperson of the Police Board.”.
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POLICE SERVICE (MANAGEMENT) AMENDMENT ACT 1993
No. 39

NEW SOUTH WALES

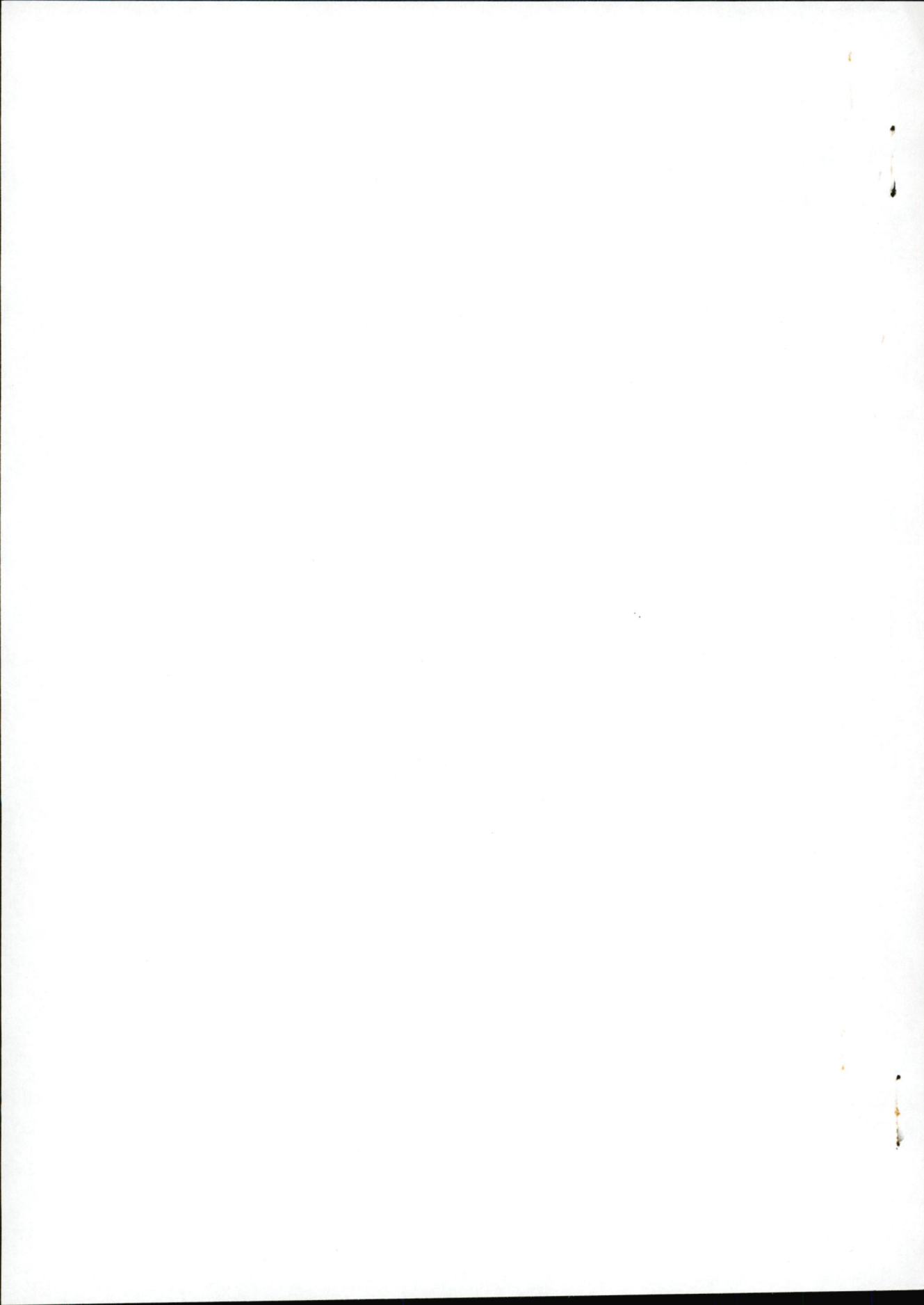


TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Police Service Act 1990 No. 47
4. Consequential amendment and repeal of other Acts

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT 1990

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS



POLICE SERVICE (MANAGEMENT) AMENDMENT ACT 1993
No. 39

NEW SOUTH WALES



Act No. 39, 1993

An Act to amend the Police Service Act 1990 with respect to the Police Board and the Commissioner of Police; and for other purposes. [Assented to 8 June 1993]

Police Service (Management) Amendment Act 1993 No. 39

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Police Service (Management) Amendment Act 1993.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Police Service Act 1990 No. 47

3. The Police Service Act 1990 is amended as set out in Schedule 1.

Consequential amendment and repeal of other Acts

4. (1) The Acts specified in Schedule 2 are amended as set out in that Schedule.

(2) The Police Service (Inspector General) Act 1991 (1991 No. 62) is repealed.

**SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990**

(Sec. 3)

(1) Parts 3 and 4:

Omit the Parts, insert instead:

**PART 3—THE POLICE BOARD OF NEW
SOUTH WALES**

Constitution of the Board

15. (1) There is constituted by this Act the Police Board of New South Wales.

(2) The Police Board is a body corporate.

(3) The Police Board is a statutory body representing the Crown.

Board subject to Ministerial control

16. The Police Board is, in the exercise of its functions, subject to the control and direction of the Minister.

SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990—*continued*

Composition and procedure of the Board

17. (1) The Police Board is to consist of:
- (a) the Chairperson of the Police Board; and
 - (b) the Commissioner; and
 - (c) the Director-General of the Ministry for Police; and
 - (d) at least 2 but not more than 4 part-time members appointed by the Governor.

(2) Although the Commissioner and the Director-General are members of the Police Board, they do not have a vote at any meeting of the Board. They each have a right to be heard at any meeting of the Police Board but both or either of them may be excluded from any meeting if the Board so directs.

(3) The Police Board must disclose in its annual report whether the Commissioner or Director-General was excluded from any meeting of the Board during the reporting year and, if so, the number of occasions on which each of them was so excluded. The Chairperson of the Police Board is to give the Minister written notice of any such exclusion as soon as practicable after it occurs.

(4) Schedule 1 has effect with respect to the members and procedure of the Police Board.

Appointment of Chairperson of the Board

18. (1) The Governor may appoint a person as Chairperson of the Police Board.

(2) The appointment of the Chairperson is to be on a part-time basis.

(3) Neither the Commissioner nor the Director-General of the Ministry for Police is eligible to be appointed as Chairperson of the Police Board.

Functions of the Board

19. The Police Board has the following functions:

- (a) the functions conferred on it by this Act in connection with the employment of members of the Police Service Senior Executive Service and other members of the Police Service;
- (b) the supervision and promotion of career development and training for all members of the Police Service;

SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990—*continued*

- (c) after consultation with the Minister, the undertaking of reviews it considers appropriate of the procedures of the Police Service designed to safeguard the integrity of the Police Service;
- (d) the making of reports or recommendations to the Minister:
 - (i) on any matter referred to it by the Minister; or
 - (ii) on any matter arising from the exercise of its functions or, after consultation with the Minister, on any other matter it considers appropriate;
- (e) such other functions as are conferred or imposed on it by or under this or any other Act.

Staff of the Board

20. (1) The staff of the Police Board is to be employed under Part 2 of the Public Sector Management Act 1988.

(2) The Police Board may, with the approval of the Minister, arrange for the use of the services of any staff (by secondment or otherwise) or facilities of the Police Service, a government department or a public authority.

Delegation by the Board

21. (1) The Police Board may delegate to any person any of the functions of the Police Board, other than this power of delegation.

(2) The Police Board must consult the Minister about any proposed delegation by the Board under this section.

Powers of entry and inspection

22. (1) An authorised person may, for the purpose of exercising the Police Board's functions, enter any police premises at any time.

(2) The authorised person may, for that purpose, call for and inspect all or any police records, documents, files or other matter, whether of the same or a different kind or nature, on those premises, and question and seek information from any member of the Police Service.

SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990—*continued*

(3) A member of the Police Service who fails to comply with any requirement made of the member under this section or to give all assistance and co-operation to the authorised person is guilty of an offence.

Maximum penalty: 20 penalty units or 6 months imprisonment, or both.

(4) An authorised person is to be issued with a certificate of authority under this section signed by the Chairperson of the Board.

(5) In this section, “**authorised person**” means a member of the Police Board, or other person, authorised by the Chairperson of the Police Board for the purposes of this section.

Annual report of the Board

23. (1) As soon as practicable after 30 June (but on or before 31 December) in each year, the Police Board is required to prepare and forward to the Minister a report on its work and activities for the 12 months ending on 30 June in that year.

(2) The Minister is required to lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

PART 4—THE COMMISSIONER OF POLICE

Appointment of Commissioner

24. (1) The Commissioner of Police is to be appointed by the Governor on the recommendation of the Minister.

(2) It does not matter whether the person appointed is or is not already a member of the Police Service.

(3) Before a person is appointed:

(a) the Police Board is required to invite applications for appointment to the office from any persons wishing to apply; and

(b) the Minister is required to obtain and have regard to the recommendation of the Police Board in relation to the appointment; and

SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990—*continued*

- (c) the Minister is required to obtain and have regard to an official report (referred to in section 3 (3)) on the previous employment and conduct of any police officer proposed to be appointed or (if the person proposed to be appointed is not a police officer) to a similar report; and
- (d) the Minister is required to request and have regard to a report under this section by the Parliamentary Joint Committee known as the Committee on the Independent Commission Against Corruption of its examination of the integrity of the person proposed to be appointed.

(4) In deciding to make a recommendation in relation to an appointment under this section, the Police Board must, from among the applicants eligible for appointment, select the applicant who has, in the opinion of the Police Board, the greatest merit.

(5) However, the Police Board is not required to invite applications for appointment if it decides to recommend the re-appointment of the person holding office as Commissioner.

(6) The Parliamentary Joint Committee has 14 days after it receives a request under subsection (3) (d) to report to the Minister and has a further 30 days (after the initial 14 days) to do so if it notifies the Minister within that 14 days that it requires more time to consider the matter. A request is to be in writing and may be withdrawn by the Minister at any time.

(7) Section 70 (Confidentiality) of the Independent Commission Against Corruption Act 1988 applies in respect of the exercise of the Parliamentary Joint Committee's functions relating to the appointment of a Commissioner in the same way as it applies in respect of the exercise of the Committee's functions relating to the appointment of the Commissioner for the Independent Commission Against Corruption.

SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990—*continued*

Acting Commissioner

25. (1) The Minister may appoint a member of the Police Service recommended by the Police Board to act as Commissioner during the illness or absence of the Commissioner or during any vacancy in the office of Commissioner.

(2) Any such member, while acting as Commissioner, has all the functions of the Commissioner.

(3) The Minister may, at any time, terminate the appointment of any such member to act as Commissioner.

Term appointment of Commissioner

26. Subject to this Act, the Commissioner holds office for such period (not exceeding 5 years) as is specified in the Commissioner's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Employment and remuneration of Commissioner

27. (1) The employment of the Commissioner is to be governed by a contract of employment between the Commissioner and the Minister.

(2) Sections 41–47, 59 and 61 (relating to employment and remuneration of executive officers) apply to the Commissioner in the same way as they apply to an executive officer. However, in the application of those sections a reference to the Police Board is to be read as a reference to the Minister.

Removal of Commissioner

28. (1) The Governor may remove the Commissioner from office on the recommendation of the Minister.

(2) The Governor, on the recommendation of the Minister:

(a) may declare the person so removed from office as Commissioner to be an unattached officer in the service of the Crown; and

(b) may revoke any such declaration.

SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990—*continued*

(3) A recommendation of the Minister under this section may be made only if the recommendation is supported:

- (a) by the Police Board; or
- (b) by resolutions of both Houses of Parliament passed after the Police Board has been given an opportunity to consider the matter.

(4) While such a declaration remains in force, the person concerned is entitled to monetary remuneration and employment benefits as if the person had not been removed from office.

(5) If:

- (a) the Commissioner is removed from office and such a declaration is not made; or
- (b) a declaration that is made is revoked,

the person concerned ceases to be employed in the service of the Crown, unless appointed to another position in the service of the Crown.

(6) A declaration under this section, unless sooner revoked, is revoked on the date on which the term of office of the person as Commissioner would have expired.

(7) A person removed from office as Commissioner (except for misbehaviour after due inquiry) is entitled to the same compensation under section 53 as an executive officer removed from office as referred to in that section.

(8) The Commissioner may be removed from office only under this section.

Retirement of Commissioner

29. (1) The Commissioner may retire on or after reaching 55 years of age.

(2) The Commissioner is not required to retire on reaching 65 years of age.

(3) Nothing in this section affects the provisions of an Act relating to any superannuation scheme of which the Commissioner is a member. However, the Commissioner may not be retired under any such Act without the Commissioner's consent.

SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990—*continued*

Vacation of office of Commissioner

30. (1) The office of Commissioner becomes vacant if the Commissioner:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) is removed from office under section 28; or
- (d) retires from office under this or any other Act; or
- (e) resigns his or her office in writing addressed to the Minister.

(2) The retirement or resignation of a Commissioner does not take effect until:

- (a) the Minister accepts the retirement or resignation; or
- (b) the Commissioner has given the Minister at least 4 weeks' notice in writing of the day on which the Commissioner intends to retire or resign and the Commissioner is not on that day under official investigation for misbehaviour.

(3) The Commissioner is under official investigation for misbehaviour if the Minister so certifies with the concurrence in writing of the Chairperson of the Police Board.

Delegation by Commissioner

31. The Commissioner may delegate to another member of the Police Service any of the functions conferred or imposed on the Commissioner by or under this or any other Act, other than this power of delegation.

(2) Schedule 1 (**Provisions relating to the members and procedure of the Police Board**):

(a) Clause 1, definition of "part-time member":

Omit "other than the Commissioner or the Chairperson", insert instead "other than the Chairperson, Commissioner or Director-General of the Ministry for Police".

Police Service (Management) Amendment Act 1993 No. 39

SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990—*continued*

- (b) After the definition of “part-time member” in clause 1, insert:

“**voting member**” means a member other than the Commissioner or the Director-General of the Ministry for Police.

- (c) At the end of clause 3, insert:

(2) Subject to this Schedule, the Chairperson holds office for such period (not exceeding 5 years) as is specified in the Chairperson’s instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

- (d) From clause 4, omit “A part-time Chairperson”, insert instead “The Chairperson” and omit “the part-time Chairperson”, insert instead “the Chairperson”.

- (e) Omit clause 5 (1) (f) and (i).

- (f) From clause 5 (1) (h), omit “a part-time”, insert instead “the” and omit “part-time” where secondly and thirdly occurring.

- (g) From clause 7 (2), omit “a part-time Chairperson” wherever occurring, insert instead “the Chairperson”.

- (h) After clause 10, insert:

Notice of meetings

10A. All members are to be given notice of meetings of the Board by the Chairperson or by an officer of the Board authorised by the Chairperson.

- (i) Omit clause 11, insert instead:

Quorum

11. A quorum for a meeting of the Board is a majority of the voting members of the Board for the time being.

- (j) Omit clause 12, insert instead:

Presiding member

12. (1) The Chairperson or, in the absence of the Chairperson, a part-time member elected to chair the meeting by the voting members present is to preside at a meeting of the Board.

Police Service (Management) Amendment Act 1993 No. 39

SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990—*continued*

(2) The person presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

(k) Clause 13:

After “votes cast”, insert “by voting members”.

(l) Clause 14:

From clause 14 (1), omit “those members”, insert instead “such of those members as are voting members”.

(3) Schedule 2 (**Police Service Senior Executive Positions**):

Omit “Inspector General”.

(4) Schedule 4 (**Savings, transitional and other provisions**):

(a) At the end of clause 2 (1) of Part 1 (Savings and transitional regulations), insert:

the Police Service (Management) Amendment Act 1993.

(b) Omit clause 14 (Application of s. 26).

(c) At the end of the Schedule, insert:

**PART 6—PROVISIONS CONSEQUENT ON
ENACTMENT OF POLICE SERVICE
(MANAGEMENT) AMENDMENT ACT 1993**

Definitions

20. In this Part:

“**amending Act**” means the Police Service (Management) Amendment Act 1993;

“**appointed day**” means the day appointed for the commencement of Schedule 1 (1) to the amending Act.

Police Board

21. (1) The Police Board constituted under section 15 (as in force immediately before the substitution of that section by the amending Act) is a continuation of, and the same legal entity as, the Police Board constituted under that section (as so substituted).

SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990—*continued*

(2) A person who, immediately before the appointed day, held office as a member of the Police Board ceases to hold that office on the appointed day. The person is eligible (if otherwise qualified) to be re-appointed, but is not entitled to any remuneration or compensation for so ceasing to hold that office.

(3) A delegation by the Police Board made under section 21 and in force immediately before the substitution of that section by the amending Act is taken to be a delegation under that section (as so substituted), but only to the extent that the Police Board continues to have the relevant function.

Commissioner of Police

22. (1) The person holding office as Commissioner immediately before the appointed day is taken to have been appointed as Commissioner on the appointed day for a period of 5 years or until the person reaches 65 years of age, whichever is the shorter period. However, if that person was appointed for a term, the person is taken to have been appointed for the balance of that term.

(2) For the avoidance of doubt, the provisions of the amending Act (including the provisions relating to the Commissioner's contract of employment and the Commissioner's removal from office) apply to the Commissioner during the period of appointment under this clause.

(3) Until the Commissioner enters into a contract of employment, the Commissioner is entitled to remuneration at the rate payable to the Commissioner immediately before the appointed day.

(4) A delegation by the Commissioner made under section 31 and in force immediately before the substitution of that section by the amending Act is taken to be a delegation under that section (as so substituted).

Police Service (Management) Amendment Act 1993 No. 39

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF
OTHER ACTS—*continued***

Inspector General

23. (1) The person holding office as Inspector General in the Police Service immediately before the day appointed for the commencement of Schedule 1 (3) to the amending Act is taken to have been appointed, on that day, to the position of Inspector General in the Public Service (being a position in the Ministry for Police) for the balance of the term of office as Inspector General in the Police Service.

(2) The contract of employment of that person under section 41 is taken, on that day and pending a new contract of employment, to be a contract of employment entered into under section 42G of the Public Sector Management Act 1988.

(3) That person, or any other person who holds office as Inspector General, may exercise the functions of an authorised person under section 22 (Powers of entry and inspection) for the purposes of the Inspector General's functions.

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF
OTHER ACTS**

(Sec. 4 (1))

Public Sector Management Act 1988 No. 33

Schedule 3B (Senior Executive Positions):

At the beginning of the positions relating to the Ministry for Police, insert the following position:

Inspector General

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

(1) Section 24A (Definitions):

After "1988" in the definition of "chief executive office holder", insert "or the Commissioner of Police".

Police Service (Management) Amendment Act 1993 No. 39

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF
OTHER ACTS—*continued*

- (2) Schedule 1 (**Public offices**):
Omit “Commissioner of Police.”.
- (3) Schedule 3 (**Public offices**):
Omit from Part 2 “Chairperson of the Police Board.”.
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[*Minister's second reading speech made in—
Legislative Assembly on 31 March 1993
Legislative Council on 20 May 1993*]