

Leave of Absence

Friday, May 29, 1992

HOUSE OF REPRESENTATIVES

Friday, May 29, 1992

The House met at 1.35 p.m.

PRAYERS

[MADAM SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Madam Speaker: Hon. Members, I have granted leave of absence from today's sitting to the Member for Oropouche (Mr. Trevor Sudama) and to the Member for St. Augustine (Mr. John Humphrey).

MAXI-TAXI BILL

Bill to re-enact the Maxi-taxi Act Chap. 48:53; brought from the Senate, [*The Attorney General and Minister of Legal Affairs*]; read the first time.

Motion made, That the next stage be taken at a later stage of the proceedings.
[*Hon. K. Sobion*]

Question put and agreed to.

ORAL ANSWERS TO QUESTIONS

Voting Machines

34. Mr. Krish Jurai (*Nariva*) asked the Minister of Finance:

Would the Minister state:

- (a) When were the voting machines purchased and what was the total cost of same?
- (b) How many voting machines were purchased?
- (c) What is the total maintenance cost of these machines to date?
- (d) Are these voting machines still being maintained?
- (e) What does the Government intend to do with these voting machines?
- (f) Whether the PNM Government has any plans for the re-introduction of voting machines in the electoral system?

The Minister of Finance (Hon. Wendell Mottley): Madam Speaker, the answer to question No. 34 is as follows:—

- (a) The voting machines were purchased on November 12, 1960 at a total cost of US \$1.2 million;

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- (b) 1,000 voting machines were purchased;
- (c) There are no maintenance costs of these machines to date;
- (d) These voting machines were never maintained and they are not now being maintained;
- (e) The Government has not taken any definitive decision in respect of the future use of these voting machines;
- (f) The Government has no plans to re-introduce voting machines in the electoral system.

Pierre/Tahadille Road Project

38. Miss Hulsie Bhaggan (*Chaguanas*) asked the Minister of Works and Transport:

Would the Minister state:

- (a) The details of all costs incurred to date in the construction of the Pierre/Tahadille Road project?
- (b) The amount of funds still required for the completion of this project?
- (c) Whether Government intends to complete this project?
- (d) If in the affirmative, would the Minister indicate when steps will be taken to complete the project?

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Madam Speaker, the cost incurred on the Pierre/Tahadille Road projects for 1989 is \$45,384.67 for the widening and strengthening of the roadway with crushed blue limestone and sealing with hot asphalt mix. Similar works were continued in 1990, 1991 and 1992 and the amount of moneys released to date is \$150,000.

On the Tahadille Road the total expenditure to date is nil. The amount required to complete the widening and strengthening of Pierre Road for a distance of 1,264 metres is approximately \$585,000, of which the sum of \$40,000 has been released in 1992. The amount of funds required to complete the road is approximately \$250,000. The total amount required for completion of both projects is \$835,000.

Government intends to complete these projects. The Chaguanas Borough Corporation which has jurisdiction over these roads will determine the priority to be afforded to the completion of these projects.

1.45 p.m.

**Dumpsite
(Charuma Village)**

41. Mr. Krish Jurai (*Nariva*) asked the Minister of Local Government:

Would the Minister of Local Government state:

- (a) Whether there is a private contractor hired with earthmoving equipment to work on the dumpsite at Charuma Village, Rio Claro?
- (b) If the answer is in the affirmative, from what date was he engaged?
- (c) How many days per week is the equipment expected to work on the dumpsite?
- (d) What is the total cost paid to date to the contractor for work done on the dumpsite?
- (e) What is the total cost paid to date for earthfill and transportation of same to the dumpsite?

The Minister of Local Government (Hon. Kenneth Valley): The answer to the question is as follows:

- (a) At present two private contractors with earth moving equipment with operator work on the dumpsite at Charuma Village, Rio Claro. One was contracted by the Rio Claro Regional Corporation and the other by the Mayaro Regional Corporation. They work on alternate fortnights.
- (b) The contractor was engaged by the Rio Claro Regional Corporation from April 16, 1992. The contractor hired by the Mayaro Regional Corporation has worked at the dumpsite since June, 1989.
- (c) The equipment is expected to work from three to five days per week depending on the condition of the dump.
- (d) The total sum paid to contractors for work done on the dumpsite to the end of April 1992, is \$248,326.
- (e) The total cost of supply and transportation of earthfill to the end of December 1991, is \$15,184.

Valencia Stretch

42. Mr. Krish Jurai (*Nariva*) asked the Minister of Works and Transport:

Would the Minister of Works and Transport state:

- (a) Whether there are plans for making the Valencia stretch on the Eastern Main Road to Sangre Grande into a four-lane divided highway for traffic?
- (b) If the answer is in the affirmative, how soon is work expected to begin on this roadway?

The Minister of Works and Transport (Hon. Colm Imbert): Madam Speaker, plans for upgrading the country's main roads and highways are under continuous review. The volume of traffic on the stretch of road in question does not support the required capital investment for upgrading a four-lane dual-carriageway highway of this type. Government is conscious, however, of the number of serious accidents that have taken place on this stretch of road, and the Traffic Management Branch of the Ministry of Works and Transport has been directed to investigate and make recommendations for improving all safety aspects of the road.

Usine Ste. Madeleine Factory (Emission of Soot)

43. Mr. Ramesh Maharaj (*Couva South*) asked the Minister of Agriculture, Land and Marine Resources:

- (1) Is the Minister aware that considerable distress and/or suffering has been caused and continues to be caused by the emission of soot and/or fly ash from the Usine Ste. Madeleine factory which is operated by state-owned Caroni (1975) Limited, to residents in areas within close proximity of the said factory?
- (2) If he is aware of same, could he tell this honourable House what steps (if any) his Government intends to take to stop the suffering of the affected residents?
- (3) If his Government intends to take steps to arrest the problems, could he give a time-frame within which he expects the problems would be solved?

- (4) If he is not aware of the said distress and/or suffering, would he undertake to inform himself of the matter and announce to this honourable House in due course whether his Government intends to arrest the problems and/or hardships?

The Minister of Agriculture, Land and Marine Resources (Dr. The Hon. Keith Rowley): Madam Speaker, the answer to the question is yes. The Minister is aware that during the crop the Usine Ste. Madeleine factory, operated by Caroni (1975) Limited, emits soot and/or fly ash which causes distress and/or suffering to the residents in areas of close proximity to the factory.

Caroni (1975) Limited has been taking steps to deal with this problem. Fly ash systems were installed at the factory in 1974, representing at that time the most efficient systems available in the metropolitan countries. However, this technology did not allow for the complete removal of the problem. Nevertheless, Caroni (1975) Limited has been trying to modify the existing system to help alleviate some of the problems, at the same time trying to identify more modern technology. Over the past year, as a result of a further modification, some areas like Pleasantville and Palmiste Phase V have reported a reduction of the problem to the Community Outreach Programme established by the company.

The company has recently identified new and appropriate technology which costs approximately \$7 million. Owing to the reduced Government subvention and the overall cash flow circumstances, the company is seeking to secure financing from certain other agencies. As soon as funds are secured a time-frame of one year will be required to effect installation of the relevant equipment. That is subsequent to the identification of funds for alleviating this problem.

Mr. Maharaj: In the meantime, are there any plans to have some sort of interim relief?

Dr. Rowley: Well, the interim relief is immediate. The crop has ended and this problem is a crop time problem. If in the interim funds are sourced, it will take at least another year before we can handle it.

Prime Minister's Official Engagements

44. Mr. Ramesh Maharaj (Couva South) asked the Prime Minister:

Would the Prime Minister list his official engagements for the day of the sitting on which he is required to answer this question?

The Minister in the Ministry of Information (Hon. Camille Robinson-Regis): In answer to that question, on Friday, May 29, 1992 the official engagements of the Prime Minister were as follows:

- 8.15 a.m. Formal opening of Regional Public Policy Symposium at Valley Vue Hotel, St. Ann's. This Symposium was organized by Mark, Costello, Anthony & Associates Ltd.
- 9.30 a.m. Meeting with Ministers of Finance, Trade, Industry and Tourism, Minister of Foreign Affairs, Minister of Community Development, Culture and Women's Affairs, Minister in the Office of the Prime Minister with responsibility for Information, Minister of Agriculture, Land and Marine Resources and their respective Permanent Secretaries, together with the Permanent Secretary in the Office of the Prime Minister. This meeting was called to work out arrangements for the Caricom Heads of Government Conference scheduled for late June/early July of this year.
- 12.00 noon Mass at the Holy Trinity Cathedral.
- 12.45 p.m. Meeting, at his office, with Stephen Land, president of a trade lobby group in Washington D.C. and Mr. Lingston Cumberbatch, head of the team appointed to review foreign policy for the Government of Trinidad and Tobago.

1.30 p.m.

Mr. Maharaj: Will the Prime Minister find time in his busy schedule to see the effects of unemployment in Laventille and Caroni on any day?

Hon. C. Robinson-Regis: I am able to ascertain that and furnish the Member with the information.

**Paul Mansoor
(Official Statement)**

The following question stood on the Order Paper in the name of Mr. Ramesh Maharaj (Couva South):

45. Would the Minister of National Security inform this honourable House:

- (a) Whether he is aware of the statement made by the former Minister of National Security in this House on December 29, 1991, to the effect that

the local Narcotics Bureau had tipped off the DEA (Drug Enforcement Administration) officials in Barbados after local police realized that Paul Mansoor had slipped their surveillance net and was on board a flight destined for Miami?

- (b) If the answer is in the affirmative, would the Minister indicate whether he intends to deny the recent public and well publicised statement allegedly made by a US official to the effect that there was in fact no tip-off of the US official is true, and if it is true, does the Minister intend to do anything in respect of the action of the Government in giving the information it gave to the Parliament on December 29, 1991?

Mr. K. Valley: Madam Speaker, I have to ask for a one week deferral.

Question, by leave, deferred.

Scott's Road (Repairs to)

- 49. Mr. Sahid Hosein** (*Siparia*) asked the Minister of Works and Transport:

Will the Minister of Works and Transport, given the fact that the Highways Division is awaiting funding from WASA in order to effect repairs to Scott's Road, and given the terrible conditions of Scott's Road indicate to this House what works his Ministry intends to undertake in the interim to alleviate the suffering of the travelling public and motorists in particular?

The Minister of Works and Transport (Hon. Colm Imbert): The Minister of Transport is awaiting additional funding from WASA to carry out proper restoration work on Scott's Road. In the interim, however, the Highways Division proposes to enhance the quality of the road surface and improve the drainage of the roadway. The works to be done include grading of the roadway, patching of potholes and spreading and rolling of road base material. This work was scheduled to begin yesterday and I am advised that the ministry has mobilized on schedule.

School Bus Service (Scott's Road and Morne Diablo)

- 50. Mr. Sahid Hosein** (*Siparia*) asked the Minister of Public Utilities:

Will the Minister of Public Utilities indicate how soon the PTSC intends to introduce a school bus service for the secondary school children of Scott's Road and Morne Diablo?

The Minister of Public Utilities (Hon. Morris Marshall): Madam Speaker, the response to the question is as follows:

As result of limited resources and the current level and type of bus output, the Public Transport Service Corporation cannot at this time introduce a school bus service in either the Scott's Road or Morne Diablo areas. However, the Government, in recognition of the need for an appropriate transportation service for the school children of the nation, despite the limited resources available, re-introduced on February 10, 1992, a school bus service on a limited scale in some urban and rural areas. Further, the Government, cognizant of the fact that a more comprehensive approach should be adopted for this exercise, thereafter established a committee with the following terms of reference:

- (1) to review the operations of the re-introduced school bus service and assess the need for its further expansion;
- (2) should it be found that the service needs to be expanded, to advise on the degree of expansion required and to highlight all implications of so doing with a recommended course of action.

In keeping with the said terms of reference, the committee is currently undertaking the exercise. The committee has advised that a comprehensive report will be submitted to Cabinet by September 1, 1992. This report will inform the state as to what the committee deems necessary to provide an adequate school bus service for the children of the nation. Thereafter, depending on the availability of required resources, all efforts will be made to improve the existing service expeditiously.

Local Government Bodies (Unspent Balances)

The following question stood on the Order Paper in the name of Mr. Sahid Hosein (Siparia):

51. Will the Minister, given the fact that there are unspent balances of approximately \$16 million that have accumulated over the years from local government bodies, state:

- (a) Whether this total sum will be re-released to local government bodies?
- (b) If so, when?

- (c) If so, how much of these funds will each local government body receive, giving a breakdown under subheads for each body?

The Minister of Finance (Hon. Wendell Mottley): Madam Speaker, I seek your leave for a deferral of one week.

Question, by leave, deferred.

AHAMAD TRUST (INC'N) BILL

Question put and agreed to, That a bill to provide for the incorporation of the Ahamad Trust and for matters incidental thereto, be now read the first time.

Bill accordingly read the first time.

PUBLIC ACCOUNTS COMMITTEE

(Membership)

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Madam Speaker, I beg to move the following motion:

Whereas it is provided inter alia by subsection (1) of section 119 of the Constitution that there shall be a Public Accounts Committee which shall consist of not less than six nor more than ten Members;

And whereas it is provided by subsection (2) of the said section 119 that the Chairman of the Public Accounts Committee shall be one of the Senators, if any, and if willing to act, appointed under section 40(2)(c) in accordance with the advice of the Leader of the Opposition and the other Members such Members of the House of Representatives and Senators as the House of Representatives may determine;

And whereas the Senate at a sitting held on Tuesday, May 26, 1992, nominated the following Senators to serve on the said Committee:—

- Sen. Ainsley Mark
- Sen. Jean Elder
- Sen. Pundit R. Gosine
- Sen. Wade Mark
- Sen. Hydar Ali

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Now therefore, in exercise of the powers conferred under the said subsection (2), the House of Representatives hereby determines the membership of the Public Accounts Committee as follows:

- Sen. Ainsley Mark
- Sen. Jean Elder
- Sen. Pundit R. Gosine
- Sen. Wade Mark
- Sen. Hydar Ali
- Mr. Desmond Allum
- Mr. Jarrette Narine
- Mr. Andrew Casimire
- Mr. Raymond Palackdharrysingh
- Miss Hulsie Bhaggan

Question proposed.

Question put and agreed to.

PUBLIC ACCOUNTS (ENTERPRISES) COMMITTEE

(Membership)

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Madam Speaker, I beg to move the following motion:

Whereas it is provided inter alia by subsection (5) of section 119 of the Constitution that there shall be a Public Accounts (Enterprises) Committee which shall consist of not less than six nor more than ten Members;

And whereas it is provided by subsection (6) of the said section 119 that the Chairman of the Public Accounts (Enterprises) Committee shall be one of the Senators, if any, and if willing to act, appointed under section 40(2)(b) in accordance with the advice of the Leader of the Opposition and the other Members such Members of the House of Representatives and Senators as the House of Representatives may determine;

And whereas the Senate at a sitting held on Tuesday, May 26, 1992, nominated the following Senators to serve on the said Committee:

- Sen. John Rahael
- Sen. Ashick Hassim
- Sen. Dr. Harry Kuarsingh
- Sen. Michael Mansoor
- Sen. Muntaz Hosein

Now therefore, in exercise of the powers conferred under the said subsection (6), the House of Representatives hereby determines the membership of the Public Accounts (Enterprises) Committee as follows: —

- Sen. John Rahael
- Sen. Ashick Hassim
- Sen. Harry Kuarsingh
- Sen. Michael Mansoor
- Sen. Muntaz Hosein
- Mr. Edward Hart
- Mr. Hedwige Bereaux
- Mr. Cyril Rajaram
- Mr. Trevor Sudama
- Mr. Sahid Hosein

Question proposed.

Question put and agreed to.

ORDER OF BUSINESS

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Madam Speaker, I seek leave of the House to defer consideration of motions numbers one and two under “Public Business” and to proceed with the second reading of the Maxi-taxi Bill.

Question put and agreed to.

MAXI-TAXI BILL

The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):
Madam Speaker, I beg to move,

That a bill to re-enact the Maxi-taxi Act Chap. 48:53, be now read a second time.

Madam Speaker, last evening I had the pleasure of piloting the Maxi-taxi Bill (1992) through all its stages in the Upper House. We were able to secure the requisite three-fifths majority which is necessary as a result of the decision of Mr. Justice Wills, given on May 19, 1992, when he declared that the Maxi-taxi Act (1979) was unconstitutional, null and void and of no effect from the point of view that it had infringed the right to property without being passed with the necessary constitutional majority.

There are two observations which I wish to make concerning the debate yesterday in the other place, and the first is that there was an immediate recognition on the part of Members that this was a matter of absolute urgency and that it was necessary in the national interest that that legislation, the matter which now engages us, should have been passed with expedition.

That national interest involves the following matters:

- (1) ensuring that a certain traffic management policy, which deals with problems of traffic flows and congestion, be put in place and be retained;
- (2) that a public transportation policy which ensures that persons in all areas of the country are served with a regular transportation supply to take them to and from work and to and from school; and
- (3) ensuring that those members of the travelling public were able to travel with the certainty that they were covered by the necessary insurance in what is a public service vehicle.

In other words, there was a recognition that there was the need to protect the ordinary man, the man in the Clapham Omnibus, as the lawyers would say, or the man on the Caroni maxi-taxi. Secondly, even though Opposition Members abstained, they, in their contributions, recognized there was a need to ensure that certain regulations were put in place—

Mr. B. Panday: Point of order. According to the Standing Orders, the Member may not refer to debates in the Upper House with a view to persuading this House to follow its decisions.

Hon. K. Sobion: Madam Speaker, without awaiting your direction, I will go in the direction which I think is quite proper.

When the bill was piloted, I thought it was important—and I do so now—to indicate what, in my view, is the real issue before this House. I know that relevance in Parliament has a greater elasticity than it has in other places, and I say that without disrespect to presiding officers of Parliament or indeed to Members of this honourable House. But I think it is important that we look at the real issue involved in the passing of this bill.

The fact is, that we are faced with a situation where a Judge of the High Court has ruled that the Maxi-taxi Act of 1979 is unconstitutional. That decision leaves a void which affects the operation of maxi-taxi drivers and which adversely affects the travelling public. I refer specifically to the question of zoning, which provided for the orderly operation of maxi-taxis within specified areas in the country, and I refer, also, to the fact that having regard to the rejection of the 1979 legislation, persons who travel in maxi-taxis may now be exposed without insurance coverage if they were to suffer injury or loss of life. We are therefore obliged to do something to fill that void.

The options open to the Government, would be to, one, appeal the judgment of Mr. Justice Wills; or, two, to ensure that new legislation is introduced as early as possible. We propose to do both. We have put in train mechanisms for lodging an appeal against the decision of Justice Wills and that appeal will be lodged in the course of next week. Having lodged that appeal, we also propose to seek an early hearing of the appeal by application to the Court of Appeal.

Further, however, and with a view to filling the void which I referred to we have brought this bill to take care of the period pending the appeal and in the event that an appeal is not successful, to deal with the situation from here on. I must, however, make the point that seeking the special constitutional majority at this stage is not meant or is not intended to be any concession with respect to the appeal which we propose to file.

We, as a Government, have to act responsibly having regard to the situation which has been created and we are confident that the Members of this House will recognize the need for urgency and the need to protect those members of the travelling public in this emergency situation with which we are faced.

I anticipate—and this is why I refer to the question of relevance—that Members on the other side are as concerned, as we are, about deficiencies which exist in the regulations relating to the operations of maxi-taxis. The maxi-taxi system has been in operation for just about 13 years.

Mr. Mohammed: Will the hon. Attorney General give way to a question please? Will he state, having regard to this new bill which is getting the required majority and will provide retroactive effect, what merit would there be, in fact, in pursuing an appeal?

Hon. K. Sobion: Quite simply, Madam Speaker, as the hon. Member for Caroni East ought to be aware, the judgment of Mr. Justice Wills not only declared the Act unconstitutional, but also awarded damages and costs to the applicant. It is important that one deal with that aspect of the judgment from a jurisprudential point of view. I do not think that the judgment should be left untested in the Court of Appeal in any event, even if it were purely of academic interest.

I said I was about to make reference to the fact that I am sure that Members on the other side are as concerned as we are about the deficiencies in the system and about the need to put in place regulations which would meet those deficiencies. We are all too well aware of the problems relating to maxi-taxis; we are all too well aware of the complaints; we are all too well aware of the accidents which have occurred, including loss of life to school children, *et cetera*. I want to assure the honourable House, however, that prior to the judgment of Justice Wills, the hon. Minister of Works and Transport had discussions with me concerning some of the recommendations which he had received for amendments to the Maxi-taxi Act and its regulations and also to assure this honourable House that it is proposed that upon passage of this particular bill, we would come before hon. Members with amended regulations at which time there can be a full debate on all those concerns which we both share.

In the circumstances, and having regard to what I have identified as the issue, I feel confident that this bill will not detain us very long today as I am sure that Members of this House will act responsibly in responding to what is a matter of national urgency.

Mr. B. Panday: You can bet your bottom dollar we shall act responsibly.

Hon. K. Sobion: I certainly expect that all Members will act in a responsible fashion, having regard to the concerns which I will shortly identify.

The bill before this honourable House is entitled the Maxi-taxi Bill, 1992 and I want to indicate from the outset that this bill is substantially in the same form as the Act of 1979, which was rejected by Mr. Justice Wills. The major difference, as I indicated earlier, is that it provides for a special majority of three-

fifths of this House and there is one major policy change which is contained in clause 6(1) of the bill.

Clause 6(1)(b) provides for a new class of permit called an operator's permit, which is to be distinguished from the owner/operator permit which existed in the 1979 legislation. This type of permit, in clause 6(1)(b), provides for a person who is not the owner of a maxi-taxi to offer his services to an owner.

We see this policy change as having two major effects: One, it creates job opportunities for persons who may be competent drivers but do not have the financial wherewithal to purchase a maxi-taxi; two, it affords the owner the opportunity to maximize his investment in that he would be in a position to have his maxi-taxi vehicle operated by more than one person during any 24-hour period. Those are the two benefits which we see coming from the major policy change which is included in the present legislation.

In regard to that latter consideration, one must also appreciate the safety factor; and what we have had happening over the past few years is that persons who have invested heavily in maxi-taxis found themselves in the position where they had to over extend themselves physically in trying to meet their monthly instalments. By the provision of clause 6(1)(b) we see that that safety factor would be taken care of and the owner of the maxi-taxi would be well able to maximize his investment.

We in this honourable House are very well aware of the tragedies involving members of our population. This measure is intended to ensure that we at least provide an opportunity where there can be a change of the guard, as it were, during a 24-hour period.

The other changes which are included in this bill relate to penalties in respect of certain offences and those changes are contained in clause 8(3), 9(2), 10 and 11(2). What we have sought to do, in the short time available to us since the judgment of Justice Wills, is to review the penalties with a view to ensuring that they are a more effective deterrent than existed under the legislation of 1979.

I would illustrate, by referring to clause 8(3), which deals with the use of a maxi-taxi by a reposessor without a valid permit; the penalty has been increased to a fine of \$1,000 and imprisonment for three months.

You will note, Madam Speaker, that in clause 8(2) the reposessor can apply for written approval from the authority to use the maxi-taxi. If he fails to do so, he commits an offence under the Act and will attract the penalty contained in

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clause 6(3). I must, for the benefit of hon. Members, point out the benefit of permitting the reposessor of a maxi-taxi to get that written permission if he thinks it necessary, because we do appreciate that a reposessor may have some difficulty in effecting a resale of the vehicle and he can therefore, in the interim, apply to the authority for permission to use the vehicle pending that sale.

2.25 p.m.

In clause 9 (2), the penalty has also been increased to a sum of \$5,000, and the offence to which that relates is using a maxi-taxi for commercial purposes. We have altered the provision in the original legislation which provided for a continuing offence and created an increased penalty because of the difficulty in determining whether a continuing offence is taking place in relation to the commercial use of a maxi-taxi.

In clause 10, the penalty has also been increased to provide for a term of imprisonment.

In clause 11 (2), we have retained the provision for a continuing offence, and this is a situation where a vehicle is painted in such a way as to resemble the markings of a maxi-taxi.

I may point out that the offence of using the vehicle for a commercial purpose which is contained in clause (9) attracts a higher penalty because of the fact that it will amount to a breach of the conditions under which the person would have been allowed to purchase the maxi-taxi. He would have received certain concessions in terms of motor vehicle tax, importation tax, *etc.*, and that would have given him an unfair advantage against a person who has to purchase a commercial vehicle and has to pay those taxes which are forgone in the case of the maxi-taxi operator.

As I indicated in my opening remarks, this legislation is intended to fill a void which has been created by the work of the judicial process. We have recognized the need for urgency because of the problems which face, not only the travelling public but also third parties who may not even be in a maxi-taxi, as such. For that reason, we have introduced clause 13 of the bill which is the only retroactive clause. Clause 13 is an amendment to the Motor Vehicles and Road Traffic Act. The intent and purpose of clause 13 is to cater for what we perceive to be a serious problem which exists at the moment. That is, third parties, whether they be passengers in other vehicles as opposed to passengers in maxi-taxis, if there is an accident and the fault is that of the maxi-taxi operator there may arise a

situation where the insurance company may declare that they have no liability under the insurance policy. The reason is that maxi-taxis above the 12-seaters are of a weight which exceeds class 3, which is the light motor vehicles under the Motor Vehicles and Road Traffic Act, and the requirement is that the operator holds a taxi driver's badge and licence so that there is no need to have a class 4 licence permit, which is the Heavy 'T' licence; but they were authorized and permitted to drive a vehicle which would normally fall within that class of vehicle by reason of the Act of 1979.

In the situation in which we find ourselves today, and since May 19, a number of operators of those larger maxi-taxis, who are not holders of a Heavy 'T' licence, may not be covered by insurance and will, perhaps, in fact, be driving those vehicles illegally. In the circumstances, we thought it necessary and prudent to include in this amendment to the Maxi-taxi Act, an amendment to the Motor Vehicles and Road Traffic Act which will lend some certainty to the situation and which will provide, in effect, and quite simply, that all maxi-taxis, despite their weight, now be considered class 3 motor vehicles. We thought it necessary for the protection of the travelling public, and, again, for the protection of those who may have been injured in maxi-taxis since their inception, to make this provision retroactive to the date of the introduction of those larger maxi-taxis, which is April 21, 1982.

By providence, the judgment of Justice Wills affords this honourable House the opportunity to demonstrate to the national population at large that this Parliament can act, and act swiftly in the national interest. We feel that it is an opportunity where all of us who are in this House can respond to a national emergency and deal speedily with the relevant issues which face this honourable House today.

In those circumstances, I do ask the support of all Members of this House on this bill which provides a holding pattern—

Mr. Robinson: Madam Speaker, before the hon. Attorney General resumes his seat, I am not sure that I heard all of his contribution, but at the bottom of the Explanatory Note it is stated:

"The opportunity is also taken to revise and re-write a few of the provisions of the Act, . . ."

Then it states:

"notably in the area of penalties."

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I am not sure whether the Attorney General referred to those areas other than penalties where revisions took place. If not, would he please indicate?

Hon. K. Sobion: I did refer to the clauses relating to penalties which were amended, and those were clauses 8 (3), 9 (2), 10 and 11 (2).

Mr. Robinson: I am saying other than penalties.

Hon. K. Sobion: I did refer to clause 6 (1) (b) which was the major policy change which provided for an operator's permit. That is the major change and, in fact, the only significant change to the Maxi-taxi Act of 1979.

Mr. Robinson: I mentioned this because the language used is "revise and rewrite"; it does not speak of the introduction of a new provision enabling a person, not being an owner, to operate with a licence. This is a new provision, but this talks about rewriting. What I am asking is whether there are any provisions which had been rewritten?

Hon. K. Sobion: The provisions which have been rewritten in the sense, as I understand "rewrite" to have been used in the final sentence of the Explanatory Note, is that we have removed the provisions for continuing an offence in two of the clauses, to which I have referred. I indicated that in the case of an offence for using a vehicle for commercial purposes, it was difficult to ascertain whether an offence was continuous, so we have merely made it a single offence and with a single penalty on each occasion which it occurs.

Mr. Robinson: Can you refer to those provisions in the bill?

Hon. K. Sobion: The provisions relating to commercial vehicles are clause 9 (1) which creates the offence of using a vehicle for commercial purposes, and in clause 9 (2), the penalty now imposed is a fine of \$5,000.

2.35 p.m.

Under the Act of 1979, and I would read the relevant provision—and this is the related 9(2)—"A person who contravenes subsection (1) is liable on summary conviction to a fine of five thousand dollars, where the contravention takes place within four years of the vehicle's first being registered as a maxi-taxi."

There is a rewrite there. We have removed that condition.

"(b) to a fine of thousand dollars, where the contravention takes place after the expiration of the period referred to in paragraph (a)."

So that there is a single offence which is the use of a maxi-taxi as a commercial vehicle and there is a single penalty provided whether it is a vehicle of four years old, or one more than four years old—

Mr. Robinson: Madam Speaker, I have a difficulty which I should like the Attorney General to clarify, because when the term "rewrite" is used, I understand it to mean writing in a different way to mean the same thing. But he is infusing new meanings. This is my difficulty. He is introducing, in fact, new provisions under the term "rewrite".

Mr. Mohammed: The Explanatory Note does not explain lucidly.

Mr. B. Panday: It is a non-explanatory note.

Hon. K. Sobion: Madam Speaker, I am trying to find in my mind the difficulty which the Member for Tobago East is having. If it is that the Explanatory Note is defective, then so be it. The Explanatory Note itself says, that it does not form part of the bill and is only intended to indicate the general purport of the bill. I do not think one ought to get into a quibble as to whether rewrite is one thing or the other. The fact is that there have been some minor changes in relation to the penalties provided in the 1979 Act and I have identified those as occurring in sections 8(3), 9(2), 10 and section 11(2). Other than that, the only significant change to the 1979 legislation is the creation of the operators' permit for the two or three reasons which I have indicated previously. So Madam Speaker, in those circumstances—

Mr. Robinson: Madam Speaker, I received this legislation at this sitting; and what I have been seeking to do is to get the assistance of the Attorney General whose law it is and whose introductory note it is, to explain to me what is the meaning and effect of this bit of legislation. What I sought to do was to refer to the Explanatory Note and to ask him to explain; and now he is saying that the Explanatory Note may, is, or may be defective.

What I want to know is whether the Explanatory Note is effective or not, what in fact is contained here. Has there been rewriting? If any, where has the rewriting been? Have there been new provisions. If any, where have those new provisions been? He knows very well what I am talking about. I am not quibbling. He is a professional person and he should know.

Mr. Mohammed: He can give an explanation devoid of ambiguities.

Hon. K. Sobion: Madam Speaker, I have tried to draw away from dealing with the Note which accompanies the Bill and whether rewrite may be construed in one way or another, I thought that in my presentation I had identified the changes which were made to the 1979 Act.

And for the benefit of the Members of the House, including the Member for Tobago East, I want to point out again that the changes made to the original Maxi-taxi Act are contained in section 6(1)(b), where there is a new provision for an operators' permit in section 8(3), 9(2), 10 and 11(2), where there has been an alteration of the penalties which were provided in the 1979 legislation. Those are the only changes we have made to the original Act because time permitting, it was necessary to move as swiftly as possible to fill the void which has been created by the judgment of Mr. Justice Wills. That is the sum and net effect of the legislation which is before this honourable House today and I urge Members, in the interest of resolving this national emergency, that we expeditiously approve the legislation. I thank you, Madam Speaker, and I beg to move.

Question proposed.

Mr. Ramesh Maharaj (Couva South): Madam Speaker, the hon. Attorney General has painted a picture of this being a national emergency and therefore, the onus is on Parliament to arrest that emergency. He has stated that this emergency has arisen as a result of the judgment of Justice Wills in declaring the Maxi-taxi Act unconstitutional.

I wish to reassure the other side that the United National Congress is committed to the principle that legislation must not be in vain. We strongly hold that when a government decides to come to Parliament to ask Members of Parliament to vote for a piece of legislation, especially where that legislation is to be passed under the specified majority provision of the Constitution, in that the purported legislation is alleging that fundamental rights can be contravened, it is important for the government to show that it is essentially necessary for that legislation to be passed.

I wish to state that this piece of legislation, if it is passed, is going to act in contravention of the rights of the poor man, in that, an injured third party—a person who is travelling in a maxi-taxi—under this piece of legislation would have little or no protection in certain circumstances under the Motor Vehicles Insurance Third Party Risk Act, Chap. 48:51. I shall show how this piece of legislation will take away whatever protection the person had under the previous

legislation and how by coming to Parliament to ask parliamentarians, quickly, to approve something, serious consequences can flow.

As a matter of fact, when one traced the history of the original legislation, which was declared unconstitutional, one saw that in 19—whatever year it was; it was during the Christmas season—the Minister at the time, the Minister of the old PNM, said that they had the maxi-taxis on the docks and they wanted the approval of Parliament that day. Here it is today, the picture is being painted, and if I may say with the greatest respect, very wrong. It is a totally wrong thing. The picture is being painted that this Parliament needs to act quickly in order to fill the void. Well, I ask one question and I ask it aloud. We have a legal system. The legal system provides that if a Judge makes any order and someone wants to appeal that order, that person can appeal, including the Government; apply to the Court of Appeal, not only under the rules of the Supreme Court, but also under the inherent jurisdiction of the Court to suspend and stay the effect of any judgment.

2.45 p.m.

So when the judge gave this judgment, if the Government decided to appeal—well now it has decided to appeal and said it is going to appeal—it was open to the Government to file an appeal and go immediately to the Court of Appeal and get a stay of the order or a stay of the effect of the order. That has been done in the past. In the 1970s, when the CESS Act was declared unconstitutional, the Government appealed; an application was made immediately, the very afternoon, to the Court of Appeal, and the appeal was deemed urgent and it was heard, and the effect of the judgment was stayed until the appeal was heard.

So that when Justice Wills gave this judgment, an emergency obviously arose. We are committed to the maxi-taxi drivers. Nobody could fault that. Nobody could say otherwise. We must ensure that people who travel in maxi-taxis are protected. We must ensure that there is proper regulation of traffic. We are committed to that. But we are also committed to proper legal processes and we ought to ensure that we do not, by our actions, undermine and subvert legal processes.

So if it is that the law provides machinery, a mechanism, an avenue, for a government in an emergency to use that machinery in order to appeal and to stay the effect of the order, why is it we have this void from the date of the judgment to now? I will go to show you—

Mr. Sobion: Madam Speaker, I wonder whether the Member would indicate to this honourable House whether it is appropriate to seek a stay of a declaratory order in relation to a matter that has been declared unconstitutional.

Mr. Maharaj: Madam Speaker, it is established that there are different types of staying orders. I am sure the Attorney General knows this. You can actually stay the order, suspend the effect and operation of the order, and it has been held. As a matter of fact, in England there was the Thames site case and the High Court did the matter. The Court of Appeal heard the matter the next week. The House of Lords sat on a Saturday and heard the case and the effect of the order was stayed. In the *Guriet* case, the effect of the order was stayed. In the CESS case, it was a declaration that the Act was unconstitutional.

Mr. Sobion: Would the Member therefore want to indicate whether it is not in the discretion of the court to grant such a stay, and therefore, if it is a question of certainty whether or not—

Mr. Maharaj: Madam Speaker, I would agree with the hon. Attorney General that an application for a stay to any court is a discretionary remedy and the court has to exercise its discretion. But discretion is not a wild horse. Discretion must be exercised in accordance with legal precedents. In other words, if a Court of Appeal has an instance where an Act is declared unconstitutional and the Government is saying there are grounds of appeal, then obviously, the court will have to consider that. Not only the Court of Appeal. As a matter of fact, if the Court of Appeal refuses, the Privy Council has jurisdiction as a matter of urgency to grant a stay of the effects of the judgment. But we would not know unless we apply. Order 41 of the Rules of the Supreme Court specifically provides and gives the rights to parties that in matters of public interest, an application can be made.

You see, this has serious consequences and my hon. friend, the Member for Tobago East, I think was hitting the nail on the head, that when you put in your Explanatory Note, the reason for passing a bill, then obviously, you must be able to justify that when you come to Parliament. It is significant to see that the bill in the preamble, apart from the Explanatory Note, says:

"And whereas it is necessary and expedient that the provisions of this Act shall have effect..."

You see, Madam Speaker, the action of the Executive in this matter raises several issues. One: Is it permissible in constitutional law or in constitutional

theory or in constitutional morality, for an executive to have a collateral attack on a judgment of a court? I have searched and I have found no record of any civilized government utilizing, or contemplating to utilize, the machinery of the court and the machinery of Parliament at the same time to attack a judgment of the court.

If the Government decides to appeal, then obviously, the presumption must be that the Government considers that the judgment is wrong, because it would not appeal unless it felt so. If the state thinks that the judgment is wrong, how can it, on the one hand, say that the judgment is wrong and then make a decision and come to Parliament and say on the other hand, "Listen, we want you to pass law in order to fill that void"? Because one is coming to Parliament on the presumption that the judgment is correct. Who are we? Are we to be manipulated in that way? Have we taken this oath to just go, willy-nilly, if you say that it affects public interest, and vote?

If you are coming to ask us to amend the Constitution, to pass a law under a specified majority, this is serious business. In effect, you are saying the judgment is right and you are asking us to pass this bill. So on the one hand you are saying it is right, on the other hand you are saying it is wrong. You are approbating and reprobating. You are blowing hot and you are blowing cold at the same time. That is not permissible.

What happens then? Assuming this bill becomes an Act, it is passed by the specified majority and the appeal is pursued, hundreds of thousands of dollars are going to be spent now on the appeal. The court declares that the judge was wrong, what happens to the Act? Are we going to say that we will then go to Parliament to repeal one? That is not permissible. As a matter of fact, the action of the Government in coming to Parliament to do this kind of thing, is itself unreasonably justifiable in our society, and can, in effect, be held to be unconstitutional. You cannot do that. I invite the other side in its reply to find one precedent by any civilized government which has undertaken that action. I can show them precedent where that action, if it is even contemplated or discussed, is held to be unconstitutional.

2.55 p.m.

The other question which arises is that according to this new bill, you are going to permit people who can be owners, so you can have a situation where a man can own a maxi-taxi, he can decide to enter into an arrangement with Mr. 'X' to operate it. Mr. 'X' would pay him probably a rent or fee. That operator would

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be an independent contractor. So, if this Bill is passed—let me tell you of a hypothetical case. Mr. 'A' enters into an arrangement with Mr. 'B.' 'A' is the owner and B is the operator and driver. Arrangement is made whereby they pay a certain amount of money every month and the driver gives the owner a certain amount of money every month.

I am not coming into a situation where a company can own the maxi-taxi and you have a monopoly and drivers. I am talking about the ordinary man. Mr. 'B' driving this maxi-taxi with school children on board kills 13 of them or seriously injures them. The infants or their parents now must file an action against the owner and the driver of the maxi-taxi. The owner can say that the driver was not his servant or agent and therefore the owner is not liable. The driver is a man of straw. So, whatever judgment the parents would get against the driver would be of no use because in Trinidad and Tobago we do not have a motor insurance bureau as there is in England, that in cases like that the motor insurance bureau pays the money.

What would happen is that the parents of the children cannot then file an action against the insurance company under the Motor Vehicles Insurance (Third-Party Risks) Act, Chap. 48:51 because the insured person is the owner. There is no provision for compulsory insurance in Trinidad and Tobago, for insurance companies to take out an insurance with persons who drive the vehicle. They take it out with respect to the owner.

Under section 10 of the Motor Vehicles Insurance (Third-Party Risks) Act, and as you know, but I think I should mention it, in a normal case, if a person files an action against the owner of a vehicle and the person gets a judgment in respect of personal injuries as a result of a motor vehicular accident, if the owner does not pay, the injured party can file an action against the insurance company to recover the moneys. That is one of the exceptions to the rule.

The situation that I had mentioned where you have an independent contractor and the person who is driving the maxi-taxi is held not to be the servant or agent, those 13 children would not be protected under section 10 of the Act. Section 10 (1) says:—

"If, after a certificate of insurance has been delivered under section 4(8) to the person by whom a policy has been effected, judgment in respect of any such liability as is required to be covered by a policy under section 4(1)(b) (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, notwithstanding that the insurer may be

entitled to avoid or cancel, or may have avoided or cancelled, the policy, the insurer shall, subject to the provisions of this section, pay to the persons entitled to the benefit of the judgment any sum payable thereunder in respect of the liability, including any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any written law relating to interest on judgments."

Putting it in a nutshell, the section gives the right to persons who have judgments against owners of vehicles in respect of personal injuries which arose as a result of a motor vehicular accident, if the owners are men of straw, to go directly against the insurance company in an attempt to recover the money.

As a matter of fact, the legislature of this country recognize the need for that kind of protection and that is why from time to time they have changed the amounts and have specified maximum amounts which the insurance company must pay. Under section 4 of the said Act, Chap. 48:51 and this amendment was done in 1980 under Chap. 4 of the said Act, in respect of one claim, the insurance company must pay at least \$200,000. In respect of a series of claims, \$1 million. So I should have thought that if it is assuming—the other side can justify the action in some way—but if it is constitutionally permissible to come with this kind of action at this stage—that any piece of legislation would have ensured that the travelling public is protected. And so they would have to mesh this law with an amendment to the Motor Vehicles Insurance (Third-Party Risks) Act which in effect would—and I have made a little note here—define an owner to include even a driver, an operator, or a person who has a permit under the Maxi-taxi Act.

Therefore there will also have to be legislation to permit insurance companies—and in some cases to compel them—to provide third-party risk coverage for people who are riding in these maxi-taxis and who ought to be protected. This has not been properly thought out at all and when the hon. Attorney General said that the Government is concerned about the poor man and this has given Parliament the opportunity to look at it in this national emergency, I should have thought that this would have given the Government an opportunity, if they wanted to do it, to say, well listen, we recognize that there are certain things wrong with the travelling public and their rights and what they are entitled to when they are injured, therefore, what we would do in effect is to try to increase the amount because the court awards now for people are much more than \$200,000. People are getting \$1 million. Amend this Act in order to make it compulsory for insurance companies to pay at least \$1 million for a single claim

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and probably \$5 million for a series of claims, because if one looks at the index, since 1980, one would see \$200,000 now is at least \$1 million.

You see this happens and the strength of a government is proved when we have emergencies, when a problem arises. How they should have dealt with the problem because by not dealing properly with the problem—I ask the question: What has happened with the accidents which occurred from the date of this judgment to today? What has happened to people who have been injured? What steps did the Government take in order to preserve their rights? They have taken none, because the effect of the judgment has not been stayed.

Mr. Manning: That is not true.

Mr. Maharaj: The Prime Minister can say this is not true. Is he prepared to doubt that owners' insurance policies have been cancelled by insurance companies after this judgement. What protection do they have? Have they conducted a survey? Have they seen how many accidents occurred? If it is the proper course, does this bill protect them? It does not.

In order to appreciate what has happened in this bill, one must not only look at the collateral attack which the Government have made on the judgment of the court and whether constitutional morality, at least, permits what they are doing or attempting to do. One must not only look at third parties and see whether their rights are adequately protected under this piece of legislation. One has to examine, and one sees that there is a complete absence of consideration by the Government in respect of poor people who travel on those maxi-taxis. One also has to look and see whether there is any machinery or mechanism in this bill to prevent the creation of a monopoly to operate maxi-taxis.

3.05 p.m.

In the light of the fact that the Government said that it is committed to introducing measures such as a monopolies commission to eliminate monopolies, I want to know what mechanisms have been put in this bill to prevent one person or company from owning maxi-taxi fleets. Also, when a person who has applied for the requisite licence is refused, what mechanism or machinery is provided in this bill for him to get some avenue of redress?

There is no machinery or mechanism set up under this bill for the man in the street who applies for a licence to operate a maxi-taxi, and who feels that he was unjustly treated, to challenge it, apart from breach of the rules and natural justice. Apart from any procedural impropriety, if he feels that he has been unjustly

treated, what speedy machinery does he have under this bill to test it? What machinery does he have to protect a monopoly? He has none under this bill. That is why I should have thought that the Government, assuming it is constitutionally permitted to introduce such a piece of legislation, would have set up some sort of machinery to prevent the poor man from being given a rough time and a raw deal; to prevent monopolistic situations by the multinational corporations or big companies. Foreigners can come here and own anything. We have had big companies in Trinidad and Tobago which have owned bus fleets.

In the reign of the new Government, one Minister issued a release that they intend to have a monopolies commission. I think it was the hon. Member for Barataria/San Juan. If it is that they want to protect the poor man, I should have thought that this was the right kind of situation to put in the machinery. Not only is there no machinery for that, but if for some reason my African, Indian, White or Chinese brother is discriminated against there is no machinery here; no equal opportunities commission, nothing like that in this bill to which he would have recourse.

It is easy to wave a manifesto or a piece of paper and say this is a void or, this is injustice or if we get into power we will do this and that, but the public is seeing that there is really no commitment. It is unthinkable that a Government which professes to have a commitment to equality and injustice and to bringing the resources back under the control of the man in the street, can introduce a situation where there can be a monopoly and create no machinery to protect the poor man.

It is the duty of legislators not to legislate on an ad hoc basis, not to legislate purely for meeting a contingency. It is the duty of legislators when they are legislating, if at the particular time an emergency arises but there are also things which the Government of the day recognizes are wrong in the society in that particular area, to do something about it.

I feel that this bill in its present form is dangerous to support. It is my view that the public can be adequately protected by the Government's going to the court and getting a stay of the effect of the order. That can be done within a matter of 12 hours. That should have been done already. It is my view that whatever injustices occur to the poor man with respect to travelling, this would increase it, and I do not want to be a party to that. I give the Government notice that if they do not go to the court to get the order stayed, members of the public would apply to the court in order to get the order stayed because the members of

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the public have a vested interest in the constitutional motion, and we will be in the vanguard of that struggle applying to get the effect of the order of Justice Wills stayed. I am not prepared to be a party to unconstitutional acts which border on immorality in constitutional law.

What has happened in this matter? When the honourable judge struck down the Maxi-taxi Act in its entirety, he declared the impounding of the maxi-taxi by the Transport Commissioner as unconstitutional and he ordered damages to be assessed with costs. The power to declare certain Acts of Parliament unconstitutional, void and of no effect is conferred on the Supreme Court and exercisable by it under section 14 of the Constitution of Trinidad and Tobago. This power enables the court to strike down any Act that is shown to be inconsistent with sections 4 and 5 of the Constitution of Trinidad and Tobago, or if, having been passed by special majority, it is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual. It is incumbent on the court to uphold:

one, any Act that is passed by a special majority and containing the specified declaration that it is not dealt with for the reason mentioned above;

two, any part thereof which may be conveniently severed from any other offending part which it does not deal with for any of the reasons mentioned above.

It must therefore be shown that the entire Act is unconstitutional for the Act to be struck down, or the section which is unworkable will affect the entire operation of the Act. What the judge has done in this case—and I do not intend to criticize him because I am very familiar with the laws of contempt. As a matter of fact, it was because of the law of contempt and the wrong application of it that I was given the privilege of serving seven days' imprisonment for fighting for the rights of my African brothers. I am very proud to have gone to jail and spent thousands of dollars going to the Privy Council to vindicate the rights of my African brothers against an Indian judge.

3.15 p.m.

Mr. Panday: Let the Member for Laventille take note and the Member for La Brea who organized that one down there.

Mr. Maharaj: Madam Speaker, although we are not criticizing it, I think we are entitled to look at the judgment and see what the judge has done, because we are being asked to approve legislation. *[Noise]*

Madam Speaker: Members in the public gallery, please, silence is required at all times if you are to be permitted to stay in this House, and I ask you to observe that rule.

Mr. Maharaj: It is important for us to look at it, because on reading the judgment I think one has to consider that there is a distinction between an Act being unconstitutional and people who exercise powers under an Act committing unconstitutional acts, for the action to be declared unconstitutional. One of the things that one has to look at in this particular judgment—and I am confident that the Attorney General looked at it and I am confident that is the reason why the Government has appealed because it considered the judgment to be wrong—to see whether what happened in that case was the action of the Executive and whether the Act can really, on the face of it, be unconstitutional.

It is very important for us to do that, because if we are saying there is no appeal filed, so if an appeal was filed we would have gone under the *sub judice* rule. But it is important for us to see that the approach of the ordinary man not trained in the law—one would see that it was patently open for the stay of the effect of the Order to be applied for.

I think it is important for us to consider that the decision of the judge turned upon the construction of section 7 of the Maxi-taxi Act which authorized the issue of a permit to a person who has complied with the requirements of the Act to own and operate a maxi-taxi. What the learned judge held was that the expression of "owning and operating" ought not to be interpreted disjunctively. In effect, what he is saying is that the permit would authorize no other person to operate or drive a maxi-taxi other than the owner. What the judge was saying was that under the legislation, which he declared unconstitutional, only the owner can drive a maxi-taxi; he can own and he alone can drive. He is saying it is to be operated conjunctively. Therefore, it ought not to be operated disjunctively.

What the judge was saying is that the ordinary meaning of the word "operate" is restricted to driving and not to conducting a business. So he has placed that restrictive—I am not giving the Attorney General any advice—what the judge was saying is that the ordinary meaning of "operate" is restricted to driving and not to conducting a business; and secondly, he was saying that in the context in which the phrase "owning and operating" was used, the proper construction is to read it "and conjunctively" that is as meaning both owning and operating, including driving.

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The Court in its decision—and I have read that decision a few times—said that it could have arrived at such a conclusion by having regard to the regulations made under the Act. So the judge said that in assisting him in coming to his conclusion that the Act is unconstitutional, he looked at the regulations and saw that there could have been a disjunctive meaning.

It was open for the judge to say, having regard to what is stated in the regulations, obviously the meaning intended by Parliament was a disjunctive approach. I have never heard of an Act of Parliament being declared unconstitutional if the regulations or any part thereof is unconstitutional. As a matter of fact, that is totally impermissible.

Madam Speaker, I am making this point in order to show that there is the reasonable prospect of a successful challenge on appeal and I am sure that was obvious to the Government and the Government has decided to appeal. In this jurisdiction when a Government or when people have been faced with situations like that—I have mentioned a certain instance. But quite recently, in the case of Richard Crane and the Judicial and Legal Service Commission, a stay had to be applied for in a constitutional matter. If one reads the judgment of Justice of Appeal Ibrahim in that matter, one would see that the Court of Appeal has the inherent jurisdiction to grant a stay.

I am emphasizing this in order to show that whatever emergency has been created today is not an emergency which the Government could not have solved immediately and which it cannot solve immediately. It is wrong to ask us, if they have the legal machinery and the mechanism to solve that, to come to legislate, to abridge fundamental rights in order to try an effect. If I am right, what happens if this legislation is passed?

What are the legal consequences which flow from any administration or any affairs being administered under this legislation? Because the legality of that other legislation would take effect from the date it was declared unconstitutional. In other words, if the Court of Appeal decides that the Act is constitutional, it does not take effect from that date, it relates back. What is the effect? Has it been thought out what consequences can flow; what kind of litigation the Government can be exposed to; what kind of moneys the taxpayers may have to pay; have we thought it out?

Mr. Mohammed: I do not think that was considered, appealing and bringing legislation.

Mr. Maharaj: Should we be part and parcel of a certain act when we know that by a simple executive action we could have been debating something else here today? I would not have had to stand up here to talk about this today. There are so many problems in the country; we could probably be talking about them.

You see, what the Government has obviously recognized and the Government should say so, I mean, if they come and they say it, we will understand it. Is it that having regard to the statement the Attorney General made about delays in the court, he fears that if he goes with an appeal it will take so long? Is he afraid, then, that the institutions have so broken down that he would not be able to get it effectively done? He must tell us that.

Madam Speaker, it is time that the government faced matters and directed its attention to long-standing institutional disjunction in the judicial and legal system. By coming here to get us to do this, the Government are in effect, saying—and I construe it to mean that—that we do not think that the courts would have been able to give us effective interim relief. I say, Madam Speaker, if that is one of the inferences or conclusions that can be drawn, then it is the duty of Government to address that problem immediately. Whether it is managerial or whatever, it has to be addressed.

Mr. Sobion: Madam Speaker, I wonder if my friend would give way. I know that he is trying to be as careful as possible in what he is saying, and I know that there is no need to bring to his attention the Standing Orders relating to criticisms of the judge and those involved in the administration of justice, but I thought that before he got carried away, I would mention it upfront.

Mr. Maharaj: Madam Speaker, I did not think that I made any criticism of the judges and the administration of justice.

Madam Speaker: He thought you were about to embark.

Mr. Maharaj: Madam Speaker, I should have thought that if I wanted to do that, one of the issues which would arise is that if people are injured in maxi-taxis and if it is to relieve the suffering, it is relevant to discuss the question as to whether an injured person can, under this piece of legislation—have they provided any mechanism to ensure that people's matters are dealt with expeditiously? One of the points I was going to raise later is whether a separate kind of court should not be set up in order to deal with these claims.

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But I wish to assure the Attorney General that I know he knows my thoughts on these matters and I wish to assure him further that I would not breach the Standing Orders and would not even do so, Madam Speaker.

Madam Speaker: The Hon. Member's speaking time has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [Mr. R. Palackdharrysingh]

Question put and agreed to.

Mr. Maharaj: Madam Speaker, may I thank the hon. Members for their indulgence in subjecting themselves to listening to me for a further period of 30 minutes. However, I could understand that the Prime Minister is getting very nervous, but I assure him that there is no need to be; he has five years to go.

The point I was coming to is that it seems to me that in respect of the particular piece of legislation, assuming I am wrong and the legislation is permissible and assuming that the government is right that it is concerned with these people travelling on these maxi-taxis, I should have thought that they would say well, all right, one of the problems—and Madam Speaker, I would not read all, but may I say that when one looks through the cuttings of newspapers over the years, one sees almost every week an accident occurs in maxi-taxis, people are injured; and they obviously will have to go to court. I should have thought that one of the things that the Government would address itself to in any legislation dealing with the operation of maxi-taxis and if they insisted on protecting people, is to protect the passengers if they are injured.

Many children ride the maxi-taxis to go to school. I ask the other side to tell us what machinery they have set up in this bill to protect them. I have dealt already with the question of insurance but may I mention very specifically that in England, some years ago, I think it was in the 1930s it was recognized that there was such a problem and what the government in England did was to set up what is called the motor insurance bureau and with an arrangement with the insurance companies by legislation, so that whenever there is an injury in the road, an injured party does not have to wait years and years before he or she gets compensation. The motor insurance bureaux pay the money immediately and then the Insurance Bureau takes action against the insurance company.

I have to say that in this country—and I know that I do not have to produce any figures for the Attorney General—it has reached a stage where the backlog of cases with respect to claims for motor vehicle accidents is very grave. It is taking up to 8, 10 and 12 years for people to get their claims. Some insurance companies

know that under the Supreme Court of Judicature Act they are liable to pay only six per cent interest on the judgment, so it profits an insurance company to drag on the claim, even after the judgment, for years and the person who has to benefit from the judgment can get only six per cent whereas the insurance company can take that same money and put it in the bank and get 10 and 11 per cent for the few years.

I should have thought that if this “caring Government” really cares for the poor, the man in the street, the man travelling on the Clapham omnibus or the Caroni or Laventille maxi-taxi—I would not have thought it difficult for somebody to draft a piece of legislation to amend the Supreme Court of Judicature Act to make the interest rates that are payable comparable with the banks’ rate of interest, at least with that, or to even make it more, so that it would encourage insurance companies to pay claims.

I have drafted a bill which I have not shown to my leader as yet, but which I intend to show to my leader and my parliamentary colleagues. This is a bill which, in a short space of time, can ease up the problems in the administration of justice with whatever machinery we have. With the machinery we have that you can create a Chancellor of the Judiciary, you can deal with the administration aspect and you can have judges dealing with matters in court. As I said, I have drafted a bill, and I shall be happy to pass it to the hon. Attorney General. However, I have not finalized it yet.

I think that what should happen and what the government should address its mind to, instead of addressing its mind to something like this which does not have to be done—as a matter of fact, Madam Speaker, let me show how unimportant the passage of this bill is. It is unimportant in the sense that, apart from the point that I have made that they can go to the court, if the bill attempts to correct what the judge has said is wrong, why is it that you need a three-fifths majority?

These things have to be thought out and I will tell you something. We on this side have been remaining relatively quiet. But some of the debates which have been taking place in this House and some of the responses we have been getting—I should like the Government to know that the Privy Council recently in a judgment of Whiteman said, where there is no machinery which exists to give effect to the enjoyment of fundamental rights, it is the duty of the Executive to create it. If it is not created, the law provides machinery whereby they can be compelled to create it.

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The point I am making, is that if the Executive decide, as they have been doing—if I may say so, I am very disappointed—but if they have decided that they are going to come here with legislation and go through it hook or crook, they do not care, they would not consider their position, let them go ahead. But there are certain consequences which can flow, which could not only be embarrassing for the Government, but could have serious consequences on the pocket of the taxpayer.

I would ask them to consider very carefully what I am telling them because I say it and I say it again: The action of the Executive in deciding to introduce this piece of legislation in the context of what I have spoken, is unprecedented in constitutional law or theory and on the face of it, it is unconstitutional. What they should be doing and if they are concerned with the maxi-taxis and the persons who ride in them, they should have a bill here to say all right, people who are injured—if they do not want to set up for the reasons which I have advanced already, if they do not want to set up motor insurance bureaux, if they do not want to amend the Insurance Act—why should a person who is injured in a maxi-taxi be liable to having to file two actions in order to get redress? One action against the defendant and then if it does not pay off, he files an action against the insurance company.

It would seem to me that anybody sitting down with legislation which was passed years ago, would say: Listen, having regard to the court's time, having regard to expense and litigation, let us amend that law so that in the action which the injured party is filing, the insurance company should be made a party to the proceedings. Permit that, so that in one proceeding the insurance company will be able to say whether they are going to dispute liability or not and one judgment. It would save the court's time, it would save the expense of poor people, it would, in effect, provide justice, it would secure the protection of the rights of the people travelling—the man on the Clapham omnibus, or in the maxi-taxi in Caroni or Laventille.

Having regard to the figures the hon. Attorney General gave to this House some weeks ago, I think it is important that the question of personal injury claims be looked at immediately. As a lawyer who has been in the courts for about 20 years, one sees that when there is a motor vehicle accident, what flows after that accident can have serious repercussions on the lives of a household. It may be that the breadwinner died and therefore the children are dependent, the wife is a dependent. These people have to depend on this money and if it cannot come

within a reasonable time, one can have—and it has happened before—a breaking up of the home, one can have the mother of the house having to resort to all sorts of things in order to keep the home. One can have frustration and disgust among children which can have serious disruptions on their education.

I think, that if the Government really care they should set up machinery as exists in some other countries to deal with matters like these, also countries where there has been the admitted problem of backlog. They should set up what is called an insurance claims court and they should modify the procedure. They should take out many of the adversarial aspects of the proceeding and make it more effective, so that when one goes for a hearing there will be a reduction in the time and amount of evidence to be adduced. If something like that is done, what will happen is that you would have proper respect for the rights of the people in the maxi-taxi, people in motor cars and people who are injured in motor cars.

There has been a situation which has existed in this country, for the last year I think, and it affects people in maxi-taxis. I do not know if the Attorney General is aware of it, but if he is not I would expect him to have been aware. Order 29 of the Rules of the Supreme Court, permitted a person who is injured to apply to the court to get an interim payment, interim payment on account of injuries, pending the final determination of a matter.

In other words, if Mr. X is injured in a motor car accident and he files a claim and the other side has taken action which will show that they have admitted the claim or they have recognized that a claim exists but they are still contesting the matter using the machinery of the court, that person could have applied to the court for an interim payment and the court had the power to order an interim payment pending determination of the matter. It has been recognized that Order 29 was ultra vires the Rules of the Supreme Court in that the Committee of the Supreme Court did not have the power to make that rule.

Mr. Sobion: Madam Speaker, for the information of the Member for Couva South, shortly after assuming office I had the Chief Parliamentary Counsel draft the necessary amendment to the Supreme Court of Judicature Act and the question of that amendment and the rules were in fact taken before the Rules Committee yesterday.

Mr. Maharaj: I am happy that action has been taken, but I regret very much that it has taken so long. Because one would have thought that that was something that could have been done earlier. Five months is too long for a simple

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amendment to the Supreme Court of Judicature Act. Five months is 150 days roughly.

Mr. Sobion: For how many years has that situation persisted, if I may ask?

Mr. Maharaj: Madam Speaker, the situation did not persist for a long time because it is only quite recently—about nine months ago—that this rule has been held. So people were getting redress under the initial rule. But what I am saying is that, from the admission of the Attorney General—and I must congratulate him on taking action, but I want to criticize him for not taking speedier action because five months is too long for a simple matter like this.

The point I am making is that one has to look at how the rights of the people travelling on maxi-taxis are affected, and is this legislation going to fill the void? There are many voids, as I have mentioned. Are we going to do so? When are we going to fill them? Why did we not make attempts to have them filled already? Why is there not legislation included in this or separately?

Section 76 of the Insurance Act governs the winding up of insurance companies. Under the Companies Ordinance, where the procedure for winding up can be initiated by a judgment creditor and he can apply to wind up an ordinary company which has not satisfied a claim or for which there is a claim under section 76 of the Insurance Act, it has been held that it is arguable that a person who has a judgment against an insurance company if the insurance company refuses to pay, can wind up that company.

Therefore, because of the drafting, I would think that the Government should make it quite clear that insurance companies should not be put in a privileged position in that where a person, whether in a maxi-taxi or any other form of transport, is injured and he or she ultimately gets a judgment against the insurance company, if the insurance company does not pay—and, Madam Speaker, there have been cases where insurance companies have not been paying, where they have no assets to levy against, where the poor people cannot get the fruits of their judgment—one of the remedies which are provided for in the law of execution is to wind up a company, put the company out of business if the company does not pay, or try to put it out of business to force it to pay its debts. Under our present law it is arguable; attempts have been made and it has been held that they can do it.

It would seem to me that saying that this judgment creates a void, I would say yes, if there is a void, the Government are responsible for it. If there is an

emergency today, it is because they are responsible for the emergency. If the rights of people on the maxi-taxi are not being protected or have not been protected for the past few days since the judgment, they are responsible.

This Parliament ought not to be used to pass legislation to deal with a problem which the Executive can quite properly solve within 24 hours, nor should it be asked to pass legislation which on the face of it is a lateral attack by the Executive on the judgment of the court. It smacks of constitutional immorality. Madam Speaker, thank you very much.

3.45 p.m.

The Minister of Works and Transport (Hon. Colm Imbert): Madam Speaker, over the last hour, I have been privileged to be educated in legal practice by the luminary from Couva South. I am not a lawyer, and therefore, my focus in my contribution will be on the urgent need for the bill and matters of safety and transportation policy.

Before I go on to that, however, there are just four points which the Member for Couva South raised that, as a non-lawyer, I would just like to share my layman's views on. The Member for Couva South has deemed this bill, and the need to pass it urgently, unnecessary on the grounds that the Government could have sought an urgent appeal and apply for a stay of execution. The Member himself admitted that there would be some risks in taking this course of action; in that the Government are not certain to win the appeal, and if we lost it, the present situation would continue, there would be no Act, and then you would, at that time, have to come to Parliament, urgently as we are doing now, to re-enact the Act.

Mr. Maharaj: Madam Speaker, on a point of order. My contribution was not on the appeal itself. It was that the Government could have applied for a stay of execution, a stay could have been obtained so that in the interim the parties would have been protected. *[Interruption]*

Hon. C. Imbert: Madam Speaker, can I have some protection, please?

Madam Speaker: Yes, the Member may continue.

Hon. C. Imbert: Thank you. As the Attorney General pointed out, there is also risk with the application of the stay of execution, so I do not think we need to belabour this point.

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The Member for Couva South also queried the need for a three-fifths constitutional majority. While I will not question whether he read the judgement, the bill, or the associated legislation, thoroughly, one of the points on which the judge declared the Maxi-taxi Act unconstitutional is the issue of zoning. This Government believes that zoning is essential. Since the declaratory order stands, zoning at this time is unconstitutional. Therefore, we have to receive a constitutional majority to enact that provision of this legislation.

The hon. Member for Couva South also referred to some question of interpretation regarding insurance coverage—I believe, the third party insurance provisions. Again, I am not a lawyer, but, it would seem to me that the ordinary six-seater taxi where you have a driver, who is not an owner, transporting passengers will fall into the same areas of risk that he has referred to. Not only that, but the driver of an ordinary passenger car, who is not an owner, would also be transporting passengers and falls into those areas of risk. *[Interruption]* Whatever he has to say, this is the effect. So I cannot understand his argument. If drivers of six-seater taxis have this risk, and drivers of passenger cars have this risk, and this is being covered by the Motor Vehicles and Traffic Ordinance, what is the problem?

The Member for Couva South also referred to monopolies. If he had been careful to read the regulations in the original Maxi-taxi Act, he would have observed that there are provisions, No. 11, for example, the First Schedule: The question is asked: "Are you prepared to work full time as a maxi-taxi operator?" This arises out of a policy of this Government that operators of maxi-taxis must use them for their sole source of income. Clearly, if a conglomerate, or whatever, wishes to enter the maxi-taxi market, this would not be their sole source of income—and the policy of this Government will continue along that course. As I said, Madam Speaker, I am not a lawyer.

Let me now turn to the transportation policy. There is an urgent need for this bill. As the Member for Couva South is aware, there currently exists no Act governing the operation and ownership of maxi-taxis other than the provisions that ordinarily apply to vehicles under the Motor Vehicles and Road Traffic Act, Chap. 48:50.

The maxi-taxi system was introduced into this country arising out of proposals from a 1974 study of the East-West Corridor, which gave birth in 1979 to the Maxi-taxi Act. The Government at the time had discovered that the five-seater and six-seater taxis then operating were inadequate and inefficient for

several reasons and found it necessary to introduce maxi-taxis catering for a larger number of passengers, hence the introduction of the Maxi-taxi Act in 1979 allowing the use of 9—12-seater maxi-taxis. This was further amended in 1982 to allow the introduction of 13—25-seater maxi-taxis.

The maxi-taxi system has been in operation now for 13 years. As I mentioned in the other place yesterday, there are now 3,500 maxi-taxis on the road. The latest information from my Traffic Management Branch is that maxi-taxis transport over 20 per cent of our travelling population. It is for this reason that I view maxi-taxis as a major pillar on which our national transportation system rests. Since there is no Maxi-taxi Act at present, you have 3,500 vehicles on the road, which are painted in special colours which signify certain routes that they formerly were authorized to operate on, and also you have vehicles transporting large numbers of persons which are now governed by other legislation which was never intended to cover their operations, in my opinion—and this is the opinion of the Government—it is absolutely necessary to regulate the operation of maxi-taxis.

Specifically with regard to the zoning of maxi-taxis, if we did not have a zoning system in place, there would be considerable congestion in certain areas of the country and we would have a traffic management problem. I am happy to hear that the Members on the other side are not disputing that. I am glad that they agree that zoning is necessary. It is because we wish to enact the zoning provision that we need a three-fifths majority.

Madam Speaker, to allay the fears of any of the other Members on the other side who may wish to query why we are not bringing regulations to the Parliament at this time, who may wish to raise the many different and associated matters relating to the operation of maxi-taxis, such as the need to look at the penalties and problems with enforcement of penalties, the need to look at the need for conductors, whether conductors should be licensed, whether there should be a dress code, the need to look at music levels in maxi-taxis, and tinting of windows, and in addition, whether maxi-taxi drivers should require a special permit and should be required to go through a special examination because they are entrusted with the custody of large numbers of people, I wish to let Members on the other side know that prior to the judgment of Justice Wills, my ministry had completed its deliberations—

Hon. Member: Yesterday.

Hon. C. Imbert: —on all aspects of amendments that we were going to bring to this Parliament on the regulations for the Maxi-taxi Act. I have outlined some of the areas but I can assure you that our deliberations have been extensive; we have been in consultation with the Unified Maxi-taxi Operators Association and many other maxi-taxi associations throughout the country since January 1992.

3.55 p.m.

Mr. Robinson: Madam Speaker, would the hon. Minister give way to a question? If there is such an emergency as the Government represents to exist, why did the Government not merely bring for re-enactment the then existing legislation in exact terms, rather than introduce new provisions which have complicated the picture?

Hon. C. Imbert: Madam Speaker, I am grateful for the intervention of the hon. Member for Tobago East. One of the major amendments that the Government intended to make to the Maxi-taxi Act and in fact we signalled this in our manifesto—if you read the section relating to maxi-taxis you will see that we gave the commitment to amend the maxi-taxi legislation to clear up the problems that had arisen over misinterpretation between owners and operators. The Government had already decided that we were going to amend the legislation to allow persons who are not owners of maxi-taxis to be operators of maxi-taxis. That, as the Attorney General has pointed out, is the only major change to this bill. Since we are already clear in our mind that we were proceeding with this, we thought it useful and convenient to include it in the bill.

Mr. Robinson: Would the Government consider re-amending the bill to reduce it to what was then the existing legislation, so that there should be no complications whatever in addressing its provisions? I have received this, only at this sitting. I have not been able to read it or compare it with anything else. I am only listening to what the Government is saying. I am prepared to assist to the limit, but my reason must not be thrown through the window.

Hon. C. Imbert: Yes, I am certain the hon. Member will grace us with a contribution and, perhaps, he can elaborate on that point at that time.

Mr. B. Panday: That is contempt. Contemptuous!

Hon. C. Imbert: We will consider it. As I said, Madam Speaker, I am very grateful for the intervention of the Member for Tobago East. It is indeed a major change to the Maxi-taxi Act and we will consider it. Certainly we will consider it at this time.

Madam Speaker, one thing must be made very, very clear at this point. As I said before, we have 3,500 public transportation vehicles on the road, the operators of which are now in a state of uncertainty. You can imagine what can happen when a red-band maxi enters what was formerly a green-band route. You can imagine the confrontation that may ensue when operators of certain routes see what they consider to be "outsiders" entering their domain. We certainly have a problem of confusion there.

As the Attorney General has pointed out, there is a problem with insurance cover. Drivers of the 25-seater maxi-taxis may now be without insurance cover; therefore there is a crisis with regard to that with these larger vehicles. We had a regulated system of maxi-taxis; now we have none so maxi-taxis are now treated as ordinary taxis. I am sure I do not need to belabour the point, that unless we took urgent steps to deal with this matter, we would have a chaotic situation on our roads.

Madam Speaker, I think it is not necessary for me to drag the debate on this issue any further. I think it would be the height of irresponsibility for Members on the other side not to take the necessary course to protect the rights and freedoms of passengers in maxi-taxis and to prevent chaos on our roads and a traffic management crisis. I therefore do not think I have to appeal to them. I am certain they will do the correct thing and vote with this bill. Thank you very much.

Mr. Basdeo Panday (*Couva North*): Madam Speaker, first of all I want to repeat the complaint of the Member for Tobago East, that this bill came into our possession a few hours ago, this morning. If this bill is of such tremendous importance to the country, do you not think we deserve to study it? Do you not think we deserve to have time in order to prepare amendments as we see fit? But the hon. Member says that the reason for giving you a bill this morning and expecting you to study it and make amendments, if necessary, is that this is a matter of urgency and in the national interest.

Mr. Robinson: I regret, very much indeed, to interrupt the Leader of the Opposition, but may I make it clear that this bill came into my possession this afternoon at this sitting.

Mr. B. Panday: That makes the matter worse. If, when a Member of Parliament comes into this House and he looks on his desk and sees a bill and you expect him to make a contribution on it, that is contempt.

Mr. Sobion: You have done very well.

Mr. B. Panday: If we have done well so far, as my friend says, it is only because we are bright.

Mr. Mohammed: That is a good admission.

Mr. B. Panday: The point is, as of now in this debate I have not heard an answer to the point made by my learned colleague for Couva South; and that is, why did the Government not apply to the Court of Appeal for a stay of the effects of its order? The reason that is being put forward, so far, is that there was a risk that if they had gone, they may not have gotten it.

Mr. Mohammed: There is a risk here too.

Mr. Panday: But how would you know that unless you go? You must first go to know whether you will get it. Maybe you felt sure you would get through here. If you believe there is no risk here, I think you have another “think” coming. But my point is that the learned judge gave his judgment on May 19, that was 10 days ago. You come to this House and tell us: There may have been a risk if we had gone to the Court of Appeal for a stay. The point is, a stay is extremely important because as the learned Attorney General says there is a void. A void has been left since the 19th when the Honourable Justice Aeneas Wills delivered this judgment. I am told that this bill will fill the void. But will it do so from the date on which the learned judge gave his judgment? I can find nothing in this bill that says that it is retroactive to the 19th.

I am sorry the learned Attorney General is engaged in conversation—

4.05 p.m.

Mr. Sobion: I am hearing you.

Mr. B. Panday: Well then, help me. Tell me where in this bill it is retroactive. Because you are going to fill a void, and the most important thing is the hiatus. Because people have been travelling in maxi-taxis since the 19th, the last ten days, and there have been accidents and there are people who—

The Member for Diego Martin East is doing his hand like that? So what, if they are dead, they are dead? Is that it? You do not care? Is that your attitude? You just fling your hands like that? Is that how you behave? Your arrogance is overwhelming. It is exceeded only by your height.

The point I am making is, had you done what the Member for Couva South had said, the stay would have operated from the time the judge gave his judgment

and there would have been no hiatus; there would have been no void. This bill is not going to fill a void. I am asking and I am not getting an answer. Where in this bill does it say that should it be passed in the House today, it would be retroactive to the 19th? What happens to all the matters which have taken place from the 19th to today? What has happened to all the people who have been injured? What has happened to all the vehicles which have been damaged and so on?

Mr. Sobion: Madam Speaker, I appreciate that my friend the Member for Couva North got the bill this morning, as he says, and perhaps has not had time to read clause 13, as bright as he may be. But clause 13 deals retroactively with provisions which, as I said when I presented the arguments for the bill, would provide for a curing of the lack of insurance coverage.

Mr. B. Panday: I do not think the learned Attorney General has read it. Let me read clause 15 for him. Clause 15 amends the Motor Vehicles and Road Traffic Act, Chap. 48:50.

"15(1) The Motor Vehicles and Road Traffic Act is amended in section 50 by substituting for Class 3 the following:

'Class 3 Light motor vehicles (including private motor cars, taxis with a tare weight not exceeding 2270 kilograms, maxi-taxis...'

whatever their tare weight;

“and light goods vehicles not exceeding a maximum gross weight of 2950 kilograms)“.

What that does is, it makes maxi-taxis that were over the weight, instead of being heavy vehicles, vehicles which are insured and so on. That is not the issue. The issue is the claims that are going to arise from the 19th to today. Where in this Act—the entire Act will go back and reinstitute a legal provision from the day the judge gave his judgment. I have not heard an answer to that as of now. Clause 13 deals with only the aspect of weight.

So that has not been answered. And the real protection for people was in following the proper course. That is to say to go to the Court of Appeal and get a stay of the effects of the order. Of course there is a risk. But if you had done that and you had failed and you had come here and said, "Because we have failed, this Act is now urgent," that would have been a different argument. How can this Act be urgent if you have not tried to do what is in the best interest of people, that is to say, to prevent a hiatus from existing? The law allows you to do that, and it allows you to do that for the very reason. What I should have expected also in this

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bill is a provision that says that all things done under the previous Act, were deemed to be legally done. Because if it is not, then that Act never existed. Everything that was done under that Act has become illegal, because it never existed. So you must pass an Act that validates all acts done under the previous Act.

If you had given us time, we would have drafted it for you. I would have asked my learned colleague, the Member for St. Ann's West, to help you.

The point I am making is, you have not answered that point. You have not, up to now, and I do not know whether somebody is going to answer it. You have not answered that point, neither the one that the hon. Member made, that by changing the law, the major amendment, which in your answer to the Member for Tobago East—and I agree with him, incidentally, that there is a difference between revising and rewriting; and you call that quibbling—the point he was making is, that because you allow now that amendment that allows an owner to be one person, 'A' and the driver to be person, 'B', 'B' may be an independent contractor, and because he is an independent contractor, if he is driving the vehicle and he knocks down somebody and kills school children and that sort of thing, the insurance company can avoid liability. That is the point I think he was making.

Because, you see, the law is, if I own a motor car, my driver is my servant and/or agent—he is in my employ—and he is driving my motor car and he knocks down somebody and breaks his leg and so on and the court awards damages to that person, I am sued. I am the insured one and the insurance company has to pay. But if there is a relationship between the driver of the vehicle and the owner of the vehicle whereby the driver is an independent contractor, he is not the servant and/or agent. If he is not the servant and/or agent, therefore the insured is not liable. And who is the insured? The insured is the owner. The insured is not the driver. In this country you do not insure vehicles. Many people think that you insure vehicles. Insurance companies do not insure vehicles. They insure the owner in respect of the use of the vehicle. So it does not matter with different people driving that vehicle, the vehicle is not insured, the insurance company is not liable at all.

Mr. Manning: Could insurance companies authorize individuals to drive vehicles and therefore the insurance cover is applicable?

Mr. B. Panday: Certainly that may be the case. That is my point now. Where in your legislation do you make provision to ensure that the owner of the vehicle insures his vehicle to cover an independent contractor driving? That is the point my friend is making. You are right. Insurance companies are prepared to

insure anything if you pay the necessary premium. People insure against the weather, and so on. Insurance companies enter into insurances to guarantee that there is no rain so long as you pay the premium. But the point is, because you have left it out from the bill, an owner of a vehicle can insure his vehicle and avoid liability by giving out his taxi to an independent contractor.

4.15 p.m.

If the police stops the driver, he produces the insurance of the owner and that is enough because the Motor Insurance Act allows for that. You have to introduce into this Bill, a provision which compels the owner of the maxi-taxi to cover liability in every circumstance, whether it is servant/agent, whoever is the contractor. This piece of legislation does not do that. That is the point that I thought my hon. Colleague was making, but you are not answering. Insurance companies will be able to escape liability. It favours them. They will be able to comply with the law without any liability. You cannot do that to people. That is children we are talking about.

I heard the most unusual reason from the Member for Diego Martin East. He says why are you quarrelling about that? The same thing could happen with five and six-seater taxis. So that, if they could cheat you and do wrong there, they could do wrong here. That is the point he was making.

Hon. C. Imbert: On a point of order, I was referring to existing legal provisions in the Motor Vehicles Act Chap. 48:50 which provided for adequate insurance cover for drivers of six-seater taxis, who are not owners, and since those provisions are adequate, the same applies in this situation.

Mr. B. Panday: The point I am making is that it is in those circumstances—if you were in the courts for any length of time you would notice that when someone is working for the owner of a taxi and knocks down somebody, if you look at the writ, it says, the defendant/servant/agent so negligently drove motor vehicle...causing damage. The point is that servant and or agent will be covered, not an independent contractor and you must make the necessary provision. You say, listen, in a five or six-seater taxi the same thing could happen; that is, an independent contractor could be driving the vehicle and therefore if it could happen there, it can happen here. That is not an argument because of your own statistics.

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Did you not say that there are 3,500 maxi-taxis and that they transport 20 per cent of the travelling public, so that more people are exposed to that kind of danger and non-protection? You have not answered that point at all.

Yesterday was my constituency office day. The president of the Maxi-taxi Drivers' Association came to see me in connection with this bill. They had certain reservations with the bill, one of which was about this very clause about operators not being owners. The information I was given is that there are cases in this country in which one person owns 16 maxi-taxis. He is collecting from the drivers and paying the instalments; people attached to the public service. One man has four. A manager attached to a certain bank has three. So what they are doing is illegal and they were still doing it.

That is what I am told. The maxi-taxi is bought in the name of the driver in order to comply with the previous legislation. Then they had this agreement whereby there was a document between them that he was holding it on trust. Now, there is no fear. One person can buy and own a whole fleet of maxi-taxis and give them out to people to drive. That is possible now. Do not tell me that is not possible.

The original intention—you are quite right because I was present when the original Act was passed. The reason for that clause that made it compulsory for owners to be operators, was that we were trying to deal with the unemployment problem, and therefore one was allowed to own a maxi-taxi if it was his source of income. But now that Act is gone, according to you. Where in this Act—

Hon. K. Sobion: Madam Speaker, as I pointed out, the regulations in the original Act made provision for a maxi-taxi to be owned and operated only by persons for whom it constituted their sole source of income.

It is our intention to bring new regulations after this Act is passed and I can assure you that is the policy of this Government.

Mr. B. Panday: I can argue with what is before me, not what is in your head. I am arguing with what is before me; you could intend to do anything. As a matter of fact, if my friend knew anything about law, he would know that regulations cannot exist by themselves. If the judge struck down a piece of legislation, the regulations go with them.

Mr. Manning: Is the hon. Leader of the Opposition saying therefore that we should have brought the regulations at the same time that we brought the Bill this afternoon.

Mr. B. Panday: No, we are saying that is the kind of trouble that you get into when you do foolishness. You should apply for the stay of execution, that was the argument. Have you forgotten? It is because you did not follow the proper procedure that you got into all kinds of trouble.

But more importantly, from those people who came to see me—this brings me to the other point which you have not answered as well, and that is the double attack which my friend spoke of. As a matter of fact that can be interpreted as an attempt to force the judiciary to decide in a particular way. That is why it savours of unconstitutionality to carry a double attack, namely, you appeal against the decision of the judge, so that you may go there and argue his decision is wrong and at the same time you are passing legislation to replace what he has struck down.

Hon. K. Sobion: Could the Member give way? The legislation which is before this House, are we not seeking to pass it in accordance with the judgment of the judge who ruled on May 19, 1992?

Mr. B. Panday: Are you saying that you agree with the judgment? Tell me. You have to make up your mind. If you are doing this because you agree with the judge, then why did you appeal?

Now the point my learned colleague was making is extremely important, because you are going to land up possibly with two Acts of Parliament that deal with the same thing. Do you know what is going to happen? Presuming, that this Bill is passed today, it will be on the law books; and if you succeed with the appeal, the old Maxi-Taxi Act is already on the law books. You will have two Acts standing side by side. Will you have another hiatus?

The hon. Member is asking me: What do I do? I am sure he is going to do something foolish. I am sure of that because that is the history. All this would have been avoided if he had followed the correct procedure. Nobody has answered that point raised by my colleague, but there is another point which the maxi-taxi people have said and as I say, if you had given us ample opportunity or discussed the matter with the taxi drivers, they would have given you a lot of ideas.

For example, they talked about having a maxi-taxi stand and enshrined in the law, they were telling me that you should have waiting bays, so that you will introduce order into the transport system. People come and fill the first taxi and it goes off, then they fill the second one and so they continue.

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Most importantly, they say that school children are attacked in maxi-taxis because of the system of touts, and that enshrined in this Act should be a clause to control touting, as touts sometimes abuse the children in the maxi-taxis. I do not claim any credit for these ideas. This came from one of the maxi-taxi drivers from the Maxi-taxi Drivers' Association. What I am saying is that if you had done the correct thing there would have been no need to rush through this and you would have been able to produce a better bill.

4.25 p.m.

The other point made by my friend, which I have not heard answered, is: "How do you prevent people from being discriminated against? Yesterday at the constituency office a person came to me and one of his problems was that he was going to buy a "T" vehicle to be used as a maxi-taxi and wrote to the Licensing Authority. He received a letter from them which told him to bring certain papers. The way the letter is framed, it is that if he brought in the papers the licence would be granted. He bought the maxi-taxi for over \$250,000 one year ago and has been going to the Licensing Authority every day to have it turned to "H". He has mortgaged his house to the bank and they are going to sell his house because somebody at the Licensing Authority will not turn it to an "H" vehicle. That is the major reason I cannot and will not support this bill because this is to promote corruption in the whole country.

The PNM has indicated clearly that it intends to use race as a weapon to stay in power. We do not care about that. What we care about is the fact that they are going to set up under this Act an Authority and there is nothing in this bill that says when the Authority discriminates against people, on any basis, for whatever reason, that there is a method of redress. *[Interruption]*

Hon. K. Rowley: I am very grateful to the Member for giving way. Since he has made such a very interesting statement on what the PNM's stated policy is on the use of race, could he, for my edification, indicate where the PNM indicated such a policy?

Mr. Panday: Ask the Member for La Brea about the thing he organized the other day and he will tell you.

Mr. Bereaux: I have been reported in the newspapers of this country as having made a very straightforward and categorical statement as to the stand of the PNM on the question of discrimination and victimization. It is quite clear. If the Member for Couva North wants to cause his problems in Caroni and try to cover them over by pointing at La Brea, let him stay far, please.

Mr. B. Panday: Madam, I admit that the Member made a statement in the press and I thought it was very good strategy. You organize the demonstration and then make a statement to the press. That is very good actually.

Mr. Valley: Madam Speaker, if you will, just before we adjourn, the Member is imputing improper motives on the part of the Member for La Brea and I ask that he withdraw that statement.

Mr. B. Panday: My information is that he organized it.

Mr. Valley: Madam Speaker, I protest that statement by the Leader of the Opposition. He is too long a Member of the House to make that type of statement here. He can go up and down the country and do that type of work, but he ought to leave it out of the House.

Mr. B. Panday: My information is that he organized it.

Mr. Breaux: I should like the Member for Couva North to withdraw that statement. I am certain that nobody would come and say such a thing except some person who is as disreputable as he.

4.30 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

Mr. B. Panday: Madam Speaker, the point I was making when we took the adjournment was that in the absence of an equal opportunities commission to deal with complaints nationally about people who are being discriminated against for one reason or another, I would insist, before we can ever support legislation such as this that there is included—

Mr. Breaux: Madam Speaker, I thank the hon. Member for giving way. Towards the end of the sitting before the tea interval, a statement was made by the hon. Member for Couva North which alleged that I had been responsible in some way for some demonstration in La Brea and that I had organized it. I want to deny categorically that I had any hand in that and I should like to ask the Member to withdraw that statement. It imputes an improper motive to me and I call on him in this honourable House to withdraw that statement.

Mr. Palackdharrysingh: Madam speaker, on a point of order. I recall that the Member for La Brea also called out to the Member for Couva North saying that he was a disreputable Member, and that cannot go unnoticed.

Mr. Breaux: Madam Speaker, I would be prepared to withdraw that statement.

Mr. B. Panday: Madam Speaker, I told this House that our information was—and my friend must not be so thin-skinned. He has denied it categorically here, that will go on the record. I merely said that was my information. Time will tell whether I am right or wrong. Time will tell, because I have other information.

Mr. Valley: Madam Speaker, on a point of order. Either the Member is going to substantiate that charge or he is going to withdraw it. Madam Speaker, I am just asking you to rule.

Mr. B. Panday: My friend does not understand. I said "our information is", that is what I said. My friend must understand.

Mr. Maharaj: He is not making a statement of fact.

Madam Speaker: As I understand it, the Member for Couva North is not making an allegation against the Member. But I do want to remind Members that we are in an honourable House and that good temper and moderation are really the characteristics of parliamentary language. Erskine May has been advising us of this for years. Where we need this kind of parliamentary language is never more desirable than when you are involved in a debate, canvassing the opinions of one another, the conduct of your opponents in debates. What other place is parliamentary language more desirable than this? I do urge Members on both sides to take heed of this in their contributions in this House.

Mr. B. Panday: Madam Speaker, I assure you, I have never felt more sweet tempered in my life than I do at the moment. Absolutely calm, absolutely sweet tempered. But if something is reported to me, it is reported to me. I cannot do anything about it.

Madam Speaker: Maybe for the benefit of the hon. Member let me say that I think another rule that May has asked us to observe at all times is that a Member is really not allowed to use unparliamentary language or to impute motives to another Member by putting words in somebody else's mouth. I think that is very clear, that is one of the basic rules of parliamentary language. Sometimes we do forget these rules of parliamentary debate and I do ask Members to adhere them.

Mr. B. Panday: Thank you kindly, Madam Speaker. I do not mind, I forgive the Member. You see, I am not perfect.

Mr. Valley: Madam Speaker, we are really making a joke of this House. I have to take objection to this line. I really cannot take it. I am objecting to that behaviour.

Madam Speaker: Objecting to what?

Mr. B. Panday: I am forgiving the Member.

Mr. Valley: The Member for Couva North is imputing improper motives to the Member for La Brea and he continues to do so. He is implying that. Madam speaker, when he says he forgives the Member, the assumption is clear.

Madam Speaker: If I understood the Member rightly, he said it was his information that this was so. I drew to his attention that he cannot impute motives to another Member by putting words in other people's mouths: I think this is in the context in which he is now saying that he forgave.

Mr. Valley: It is not in the power of the Member to forgive, Madam speaker.

Madam Speaker: I am trying to understand what the Minister is objecting to. Is it against the use of the word "forgive", is that it?

Mr. Valley: I am objecting to the conduct of the Member with respect to the Member for La Brea.

Mr. B. Panday: Madam Speaker, when I forgave the Member, I forgave him for calling me disreputable. I am saying this in all honesty. You see, Madam speaker, I believe that every human being has at least one weakness, because if he did not, he would be God. When God made man, He made him with at least one weakness. I am saying, when God made me He was overly generous. He gave me many faults and one of the faults may be what the Member said and maybe he is right. I forgive him.

The point I was making though, before the break, was that, as I said, in the absence of a national body which reviews allegations of people being treated unequally and so on, we have an Act in which what we are doing is appointing a committee which has power to really determine whether people get maxi-taxis or they do not; how many will be allotted to each person and so on. That is what is in the bill at the moment. I am referring to clause 4(1) which says:

"The Minister shall appoint an Advisory Committee for the purpose of assisting the Authority in the exercise of its functions under this Act."

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The Authority shall have powers as stated in clause 5(1); that is:

"The Authority shall determine the type of vehicle suitable for use as a maxi-taxi and in so doing shall take into account -

- (a) its safety as a public service vehicle;
- (b) the convenience and comfort of the passengers;
- (c) the availability of the vehicle as well as its spare parts in Trinidad and Tobago;
- (d) the facilities available for assembling the vehicle locally; and
- (e) such specifications of the vehicle as may be prescribed."

However, a person who wants to operate a maxi-taxi, by clause 6, has to apply on a prescribed form to the Authority for a permit to do so. That application to own and operate a maxi-taxi—my friend has spoken about the question of the use of the word “and” there, whether it is conjunctive or disjunctive and I shall not repeat that argument. But in order to own and/or operate a maxi-taxi, you have to apply to the Authority to do so and the Authority is given the power to reject it or not. There is nothing in the Bill that says that if the Authority rejects it, that you have a right to question the Authority. It becomes almost like a recent statement one heard about the Censors Board. The Censors Board banned a film and when asked why they banned they said, "Do not ask us, we do not have to give any reasons." Now, I do not want to create that kind of situation here.

Just look at clause 7(1):

"The Authority shall issue a permit to an applicant where it is satisfied that he has complied with all the requirements of this Act and the Regulations governing the applications for such permits."

I mentioned to you a case of some person who had bought a vehicle from a public authority on the understanding—the vehicle was a “T”—that it would be converted to “H” and he would be using it as a maxi-taxi. He goes and he mortgages his house and he buys the vehicle for \$250,000. Some authority is refusing to convert it from “T” to “H”. He cannot use it as a maxi-taxi. The bank is threatening to put his house up for sale and he has no redress. That is my point: He has no redress. I should have been happy if the Government would have taken the opportunity to provide redress for people like that. A man should not have to lose his house.

Madam Speaker, if you see the letter that was sent to him when he applied. He made that application before he bought the vehicle. He wrote the authorities and said that he was buying this vehicle which was “T” and he would be requiring to make it “H”, and the letter they wrote—I saw it—told him to bring in these documents and so on and so forth. The way it is worded is as if they would have granted it as a matter of course. I should like to see entrenched in this piece of legislation provisions that will give people redress and remedy so that they would not be subjected to the heavy and unquestionable hand of the state and of public authorities.

It may be said that one can use the existing laws, that is apply for judicial review. Judicial review in itself is a provision that merely compels the authorities to give reasons. It is a very limited provision. Besides being limited, it is expensive and it takes interminably long to get redress. So that a way of getting around that would have been to introduce into this piece of legislation, provision which enables people to have redress if they feel they are being treated unequally.

During the tea-break, my learned colleagues drew two other matters to my attention. I am grateful to them for that and I thought I would mention them before I take my seat. One was that because of the way in which the Government are handling this matter, they have opened up a completely new scenario whereby actions which are pending against insurance companies can be stayed on application by the insurance companies.

Where insurance companies have been sued or have an interest in a matter which is pending before the court, that is, someone got his legs broken or his back broken and he has gone to court, the insurance company can apply now for a stay of proceedings pending the outcome of the appeal. Because, you see, if the judge is right in striking down the Act then all acts which are presumably legal under that Act which now do not exist, become illegal. It has to be unless you pass a validating act. I do not know if the Prime Minister understands that.

The judge has said that this Maxi-taxi Act is null and void. People have been doing things under the Act. People have been driving vehicles presuming that they were doing the right thing and so on. But if the Act did not exist and they were doing the same things, they were committing breaches of the law, and there is nothing in the Bill to validate those actions: (Mr. Valley, to ‘Valley-date’ those actions).

Now, if I am wrong, please tell me. I am willing to listen. *[Interruption]* If I am wrong, please tell me.

Mr. Sobion: You will be told.

Mr. B. Panday: I would be told after we reject this or before? Because it is going to be important to me. You cannot bring legislation in this way and leave people wide open to prosecutions, to the avoidance of contracts, particularly with insurance companies and so on, without validating them.

I am saying insurance companies can avoid all the claims that occurred, that are pending for acts which were done in the years that the Maxi-taxi Act was believed to have been legal. That was the one point that was raised by my colleague.

I want to make another point, Madam Speaker, and if I am wrong, again, I am always open to correction. I have never believed I am the repository of all knowledge. On page 6, clause 13(2) reads:

"Subsection (1) is deemed to have come into effect on 21st April, 1982."

I submit that is limited to clause 13. Clause 13 contains a subclause (1), which is the one which speaks about weight and so on, validates the illegalities with respect to weight only. That clause alone has retroactive effect and not the entire bill and has nothing to do with the claims which are pending at the moment under an Act which as of now has been declared to be invalid, null and void. This clause does not validate the acts done. Maybe my friends on the other side have an answer to it and if they do, I shall be eager to listen.

The other point is that it does appear that in dealing with this matter the Government are not sure if they are right or wrong. This country needs better legal advice than that. Your legal advice should be such that you are sure you are right or you are sure you are wrong, or you are convinced you are right or you are convinced you are wrong. If you are right about the Act, you will take a certain kind of action and if you are wrong about it you should take a certain action. Therefore, you should make up your minds about what is your attitude to the Act.

Mr. Manning: Who decides? You decide or the judge decides?

Mr. B. Panday: The judge made a decision. The Government can make a political judgment of whether it is going to pursue one line or another line. It seems that it is not sure where it will be successful, so it is shooting with both barrels. It is taking a shot at the Court of Appeal, but in case it fails there, it is taking a shot in the Parliament. "We are taking a shot in the Parliament but if those fellows do not support us there we might win up the road." The

Government does not know what it is doing and it is shooting with both barrels in the dark and hoping to hit something. That is not the way to run a government. That is total incompetence.

It is upon these points that I make my humble and respectful submission and I await the reply from the other side.

The Minister of Agriculture Land and Marine Resources (Dr. The Hon. Keith Rowley): Madam Speaker, I just want to make a brief intervention in what so far has been an interesting legal debate.

Since this bill was introduced, we have had a number of Members in the House who, by profession, are lawyers, make their presentations, some quite humorously, some quite seriously. I am not a lawyer, but I think that the nature of the problem does not confine itself for understanding only to those who are trained in the legal profession.

What exactly is the nature of the problem that we are dealing with? It is, as the Member for Diego Martin East pointed out, we have as a major part of our transportation system some things called maxi-taxis. They operate within the pale of the law; they provide significant transportation; they involve significant investment; during operation, they carry significant risk to those who travel on them.

A matter goes to the court and after a number of years of operating that system, the judge had reason to say, on very close examination, that certain provisions of that law under which these vehicles operate are *ultra vires* the Constitution. The judge gave an Order which, in effect, says that the law is null and void and of no effect. I am no lawyer, but I think that is what I read.

The minute that happened, it became debate of the law. While I have tremendous respect for my friends the Members for Couva South, Couva North, Tobago East and Ortoire/Mayaro in their profession as lawyers, what one understands is that the minute one starts to debate a question of legality, one is never in a cut and dried situation. It becomes a matter of judgment. When it becomes a matter of judgment, if you are out there in the public domain, it falls to the client to take the advice of the lawyer. In this case it falls to the Government to take the legal advice, to pursue one or many options, because it then becomes a matter of option.

But if one had listened to the Member for Couva South in his exuberant presentation, one would have been forgiven if one was taken to the point of

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believing that it is a matter of course. Madam Speaker, it is never a matter of course in the law. You, more than anyone would know that. And the Member for Couva South would be the first to admit that on maybe more than one occasion he was of a similar persuasion in a matter: Absolutely convinced that he was right—dead right, as we say in Trinidad and Tobago—only to be told, later on, much to his chagrin, that “you are wrong”.

Usually what happens in the court when a lawyer gives advice to a client saying, “Man, no way you could lose, your case real strong, you have to win. We will take it to the Privy Council” when you take it as a matter of course, as he sought to present, on the day when the final judgment is given and the final arbiter says you are wrong, the lawyer says to you, “I am sorry”.

Mr. Maharaj: On a point of order. I know my friend has difficulty understanding. The question has nothing to do with whether one is right or wrong. The argument has to do with why it is the Government did not apply for a stay of execution. Simple as that. It has nothing to do with right or wrong. I will not get up to object again. I think he should level with the population and not try to camouflage it.

Hon. K. Rowley: Madam Speaker, if only he had waited. The point I was coming to is this: When the Government was faced with that situation, clearly the Government looked at the matter with all the legal advice available to it and a judgment had to be made as to whether one should pursue any or all of the options as mentioned by the previous speakers. Any good lawyer does that. You look at all the options available to you.

We were told by the Members for Couva South and Couva North that all the government had to do was to seek a stay of execution. Madam Speaker, I humbly submit to you that the operative word there is “seek”. In the court you seek, and on many occasions you do not find. The Government had that option to go to the court and seek, but while you are seeking, what is happening out there with the thousands of maxi-taxis and the thousands of passengers and all the ramifications we have heard of? You may or may not succeed in your search, and the Member for Couva South, himself, used on many occasions the word “may” and he also used the word “if”. That should tell you, Madam Speaker, that even in the total presentation he is of the view that we could go for appeal and see what would happen.

In the meantime, having considered the options raised and having had adequate legal advice, there was one option which would have put the issue

beyond doubt. It is not a question of whether you would not succeed. There was one option that was available and that option was to bring to the attention of Members of this House, as expeditiously as possible, that a law which was operating in this country, under which actions were taken by owners and operators of maxi-taxis and those who use them, was struck down by the court. The major ground is that it was unconstitutional.

We know that Parliament has the authority to pass laws, but if a proposed law happens to offend the Constitution in a certain way, it requires a certain majority in the Parliament and then the action would be acceptable to the community and to the legal arm of the management of the country. The fundamental thing is that we have agreed we want maxi-taxis—I have not heard anyone object to that. We have heard from the Member for Diego Martin East who pointed out the requirement to have some regulation in the operation of these maxi-taxis.

I dare say that the system has served us well over the years, albeit with the faults to be corrected. If it is that we want that kind of operation in our transport system, if it is that the process under which they are part of the transport system some sections in the law that gave effect to that aspect of our transportation system, offended the Constitution, the responsible Government ought to put it beyond any doubt of “if”, “maybe”, “but”, “or” and come to the House of responsible people, representing the said people who use, own and operate maxi-taxis and ask them to use the power which they hold; ask them to use that vote responsibly to pass the law with the required majority so as to satisfy the legal requirement. That is all, Madam Speaker. That is the sum total of the exercise. You could broaden it from here to Point Fortin, to Tobago, to Diego Martin, that is the sum total of the exercise.

Madam Speaker, the one mistake that this Government is probably making is in assuming that those who claim to represent the rights of the people will do it without playing games.

5.35 p.m.

Hon. Member: Like you all!

Hon. K. Rowley: Madam Speaker, I want to bring to your attention an article by Ria Taitt, in Thursday's *Express*. It says:

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"Government needs Opposition support for Maxi Bill

Opposition Leader, Basdeo Panday, said yesterday that the 13 United National Congress (UNC) Members would not support the bill unless Government agreed to establish an Equal Opportunities Commission."

So that was the condition under which he will support the bill. The article goes on to say, and she quotes the Member for Couva North:

"We will horse-trade with them."

They are playing horse, and they are playing other animals. He is going to horse-trade.

Mr. Palackdharrysingh: I think it is camel-trade he meant.

Hon. K. Rowley: In a situation where we have over 3,000 maxi-taxi drivers out there, at this precise moment, on Independence Square operating under a law which a judge has struck down and you have a Government moving expeditiously to deal with it, the Leader of the Opposition, Member for Couva North, is going to horse-trade. This time in horse-trading, the demand, out of the horse's mouth, is that he wants an Equal Opportunities Commission.

Mr. Maharaj: So, what is wrong with that?

Hon. K. Rowley: Nothing is wrong with it. I am simply putting the issue as plainly, as simply and as accurately as it is. So, it is horse-trading, Madam Speaker. The article goes on to say:

"When asked whether he was opposing for opposing sake, Panday replied, 'not at all, I am opposing for an Equal Opportunities Commission'."

Not a word in the interview about this absolutely clear, crystal—

Mr. Maharaj: Could the Minister state whether he spoke to the reporter and the reporter reported everything that the Member said?

Hon. K. Rowley: Madam Speaker, I am sure that the Member for Couva North can speak for himself, and if he is misquoted, as I quoted here, he would know how to handle it.

The point I am making is this: The bill has not changed substantially. I make the assumption—I am sure my friend the Member for Couva North will grant me that—that when he spoke to the reporter, he had a very good idea of what the Government was seeking to do, which was to come to Parliament to get the

required majority so as to treat with the fact that this Maxi-taxi Act and its restriction of certain fundamental rights and freedoms required a certain majority. It was then that he said his price for supporting that is an Equal Opportunities Commission.

Mr. B. Panday: Exactly! Perfectly correct! I said it in my contribution here today.

Hon. K. Rowley: It was not a question that the Government had a crystal clear route to follow, to go to the court and get a restraining order and that would have settled it. It was not that. That is only the window dressing that goes to justify the position, as of now, a position which says that I am not going to support anything the Government puts forward.

I do not think that one needs justification because in all our lives, from time to time, we have been irresponsible. If you are going to be irresponsible, you do not need an excuse. Madam Speaker, all the law you are hearing there, seeking to give the impression that it must have gone that way, is all facile.

This bill came to us from another place, and in that other place there are eminent counsel, senior counsel, who had a completely different point of view.

Mr. Maharaj: Madam Speaker, on a point of order. The Member is referring to the other House and if he is doing that, he should disclose whether some of those Senators, who are lawyers, have any interest in insurance companies and whether they are briefed by the Government.

Hon. K. Rowley: Madam Speaker, I have no knowledge of any such thing. Since the Member for Couva South chose to approach it that way, let me put it differently. Other lawyers higher up on the national legal profile, senior counsel, have given other opinions.

Mr. Maharaj: Madam Speaker, can he say how in many cases those other lawyers have been successful in having actions of the Executive declared unconstitutional? Since he is saying higher in profile, he should answer that. He is discriminating, again!

Hon. K. Rowley: Madam Speaker, that is of no consequence. When the Member for Couva South gave his discourse, nobody questioned where his interest lies. We, in this honourable House, took his presentation at face value. To the extent that one talks about legal profile, we have a system in this country

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where you are graded—and the Member for Tobago East would know that. We have senior counsel, junior counsel, and fire-side lawyers. We have all of that.

Hon. Member: Fire-side lawyers are worse than bush lawyers.

Hon. K. Rowley: The point is, Madam Speaker, that none of the legal arguments as to what the Government should have done is clear-cut, yes or no—the question of option. When the Member for Couva South talked about double barrelled approach, collateral attack and all of that, that sounds nice. But he did not illustrate, in any serious way, where the Government was wrong, legally or in any other way, in seeking to pursue an appeal in the courts. By the same token, the Government comes to the House to get the required majority because until such time as that appeal is heard to its very last, where the dots are put in and the "ts" are crossed, we have 20 per cent of the travelling public out there depending on maxi-taxis as we actually have them operating now.

The Cabinet of the Government of Trinidad and Tobago viewed this matter seriously, and saw the need for urgent action, given the options available, including the option of appeal. This matter came to the Cabinet as a matter of priority and steps were taken to introduce this bill at a special sitting of the Upper House, to have it taken through all its stages at a special sitting and then to bring it to this House. All we are asking is that Members of this House discharge their duty with speed, with the responsibility that we have come to expect from serious persons in this country.

5.45 p.m.

We heard all kinds of extraneous matters about what kind of ethnic brother went to jail for other ethnic sister. Madam Speaker that is absolutely irrelevant and of no effect. We heard the Member for Couva South broadening the debate and saying, why did the Attorney General not bring amendments and he argued it at great length; and according to his line of argument, we should not have brought the bill like this. We should have brought it with amendments to the Motor Vehicles Act and, by extension the Insurance Act, and if I may go further, using his line of argument, we should have taken it to the Companies Act and the Bankruptcy Act because all would flow.

You have to stop somewhere. We are seeking to deal with a specific problem and to date, Madam Speaker—it is now quarter to six—and the legal luminaries on the other side have spoken and none of them has been able to say that if we do

what the Government is asking us to do, which is to vote the way we are voting now, that it will not address and solve the problem. They have not said that.

Mr. S. Panday: It would not.

Hon. K. Rowley: They have given you all kinds of alternatives and all kinds of other scenarios, but the one scenario they will not deal with is the simple scenario which says, if we vote for this bill and give it the required majority, the problem out there will be solved temporarily, while we bring the substantial amendments that the Member for Diego Martin East spoke about, and we will take people out there out of their trauma. If they were so concerned, then that is what is available to every single one of them. The Member for Couva South said that the reason why the Attorney General did not go for a stay is, by inference, that he is saying that the court processes would not allow him to get a decision in a required space of time. Madam Speaker, no such inference is being made.

It was a serious analysis of the pros and cons and any legal luminary will tell you, that this question of challenge for stays on the kinds of orders which were given in this particular instance, as Madam Speaker you yourself would know, is one of greys and fog in the legal sense; and the Member for Couva South knows that.

Mr. Maharaj: I do not know that at all.

Hon. K. Rowley: So it was not a question of inferring that the court would not have given the decision we want, or would not have done it as quickly as we would have liked; it was a question of having a route available to all of us to do what is right and required to deal with the problem now.

When one heard the Member for Couva South speak—very eloquently, very professionally—in medicine they call it a good bedside manner. I say he has a good courthouse manner. He went on to say that the bill contains provisions geared towards creating monopoly. Because what the Government sought to do is take advantage of a situation which came up as a result of a matter in the court; and since we are doing this to legalize the Maxi-taxi Act, the Government took the opportunity to introduce into the legislation a provision to cover that situation of owners and operators, to permit operators to be properly recognized and legalized under the bill. How does the Member for Couva South treat with that? He says that the Government is seeking to create monopolies.

In *Webster's Dictionary* the word “monopoly” means "a commodity controlled by one party", or "a person or group having a monopoly". I cannot for

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the life of me understand how that provision in the bill, which may permit a person to buy but not operate a maxi-taxi, or even buy two or three or four, could lead to a monopoly. The more I thought about it the more I saw what he was thinking. Because the Member for Couva South will have us believe that that provision in the bill will put an end to the PTSC. It will put an end to the 3,700 existing maxi-taxis and you will end up with one operator owning all the maxis. Madam Speaker, if you believe that, you will also believe in the tooth fairy. It is not easy to believe that.

When we heard from the Member for Couva North, I think it was, he said that he voted on the last bill because the intention was to allow operators employment and to protect that employment. That was so at the time, but then over the years it was seen that it would serve a more useful purpose to have a situation where a maxi-taxi can be owned by one person, but operated by another. If it is your intention to create employment—and we heard about the bank manager owning four—what does that mean? You cannot work in the bank and drive a maxi? Somebody else must do it. That is employment creation to the extent that somebody else has money, and rather than use that money to buy drugs and to put outside the country, if that person buys a fleet of maxi-taxis and employs one, ten, twenty, thirty persons to drive them, I am in full support of that—full support. Because it does two things—one, it provides public transportation; two, it provides employment.

Madam Speaker, if you were following the situation with respect to the Public Service Transport Corporation, you would have seen that recently analyses showed that the Corporation is not able, as a result of its revenue situation and that the Government, which supports the Corporation, to provide an adequate supply of public transportation. And, Madam Speaker, if you know how maxi-taxis are bought, you would know there are many persons who mortgage their homes, or get bank loans in other ways and decide to provide public transport. They get a living out of it and some income. So if it is that the provision allows persons to invest in maxi-taxis how can that be faulted?

But you see, when one is stuck on something, with or without reason, then you get illogical arguments like that. But when the Member for Couva South presents such an illogical argument on something as simple as a monopoly, how then can you take as gospel his advice that the Attorney General should have gone the other way? I am saying that like all of us, he too can be fallible and therefore we should treat his legal advice in a similar manner.

5.55 p.m.

Madam Speaker, equal opportunities commission. That is the *quid pro quo*. What the Member is asking us to do in this House is to give sanction to the creation of his fantasy. He created an equal opportunities commission. What I do know, is that out there, throughout Trinidad and Tobago, are thousands of maxi-taxi owners/operators and users who have a problem. That much I know. It can be very easily demonstrated. What I do not know is the burning need for this equal opportunities commission. Because the one that was created by the Member for Couva North and made available to the public with great fanfare, if my memory serves me right, the last report we had on its activities, is that after a period of months of being available to the public, they had no complaints to deal with. So where is this burning need for this equal opportunities commission?

So that you have a problem here which requires you to vote to give legal sanction to an Act which provides serious activity, legal activity to a significant portion of our transportation section, and the *quid pro quo* of Members opposite is that they want an equal opportunities commission or else they are not going to vote for it. The option is yours. All I can seek to do is to appeal to their reason. The option is very clear. Either they come up and deliver what is expected of them by the public, or they vote against the bill and let chaos reign in the transportation system.

Because one of the grounds on which the law was struck down was on the zoning of maxi-taxis. The travelling public will be the first to tell you of the kind of chaos that will ensue if you have no regulation of the system. Even the five-seater taxis require regulations. You have to have taxi stands so that they can operate in a certain area. Other vehicles cannot use that area. You have certain requirements to operate a taxi. You have certain streets on which you cannot operate a maxi-taxi. All of these are regulations geared towards providing the public with a better, more efficient and safe service.

If it is that they do not want that, then they are free to vote against the bill. They can do so and then say, "Okay, at 7 o'clock in the morning, all maxis head for Arima and stay in the East-West Corridor and then jam one another into Port of Spain."

Mr. Maharaj: Madam Speaker, on a point of order. The Government is supposed to respond to our objections. We never objected and said that we did not want zoning. As a matter of fact, when the Member for Diego Martin East was

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speaking, we admitted that we wanted zoning. A debate is a response, and I think what he has to do is to respond to the arguments which were put forward on this side.

Hon. K. Rowley: Madam Speaker, he had his turn to speak and he spoke at length. I am cautioning against the effect of irresponsibility. That is what I am doing. And to the extent that they have signalled that they intend to be irresponsible, I am putting them on notice that that will be the effect of their actions.

Mr. Maharaj: If the Minister is being responsible to the population, can he point out in the bill any provision which protects claimants for personal injuries with the question of independent contractors?

Hon. K. Rowley: Madam Speaker, the bill, as put by the Attorney General has dealt with that and I am sure that with respect to the Member's specific request, in winding up the Attorney General will answer him at length. I am not a lawyer so I do not pretend to be like him.

We had another intervention from the Member for Tobago East, and with all due respect to him, he has not spoken in the debate so I cannot say what his position is, but based on his intervention on a question, he asked: Did the Government consider re-enacting the Act that was struck down as it is, without variation? So the question he was driving at was: Could not the Government bring back the bill to Parliament and have Parliament give that same bill, in its identical form, the required special majority? That was another option. You cannot argue against that. That was considered. However, having considered it, as I pointed out earlier, since we would have been coming here to deal, as we are forced to, with the problem, the Government took the opportunity to do two things, one, to introduce very quickly some useful provisions which are quite clear, and secondly, to get the required majority, the absence of which was the basis on which the original law was struck down.

It could not be clearer; it could not be simpler. We took the opportunity so to do. Are we going to hear, "If you had brought the original bill for validation, I would have supported it"? Are we going to hear, "If the Government says, yes, to an equal opportunities commission or some similar creature, I am going to support it"? It is my submission that the level of irresponsibility that we have come to know arriving in certain quarters, is such that I would be very surprised if the Government could do anything that would get the acclaim of the other side.

I want to wind up by restating the nature of the problem and the nature of the solution. The problem is that we have the maxi-taxis out there; they were operating under a law; we are all agreed on the provisions of the law; it did not meet with the required parliamentary majority, so correctly in law, or incorrectly, I do not know, it was struck down by the court. This House has the power to use its vote to cast it in the direction of the amended bill, which took the opportunity to introduce a few provisions which we believe are useful, and in so doing, deal with the problem as it exists today.

I give you the assurance, in supporting my friend the Member for Diego Martin East, that the Government is in the process of a comprehensive review of the Maxi-taxi Act, and that had come out of a manifesto commitment to deal with one of the provisions. That comprehensive review is to deal with all the other matters such as music and whatever else to do with maxi-taxis. But in the face of the urgency, this, we believe, is not the time to talk about the comprehensive review. I give this House the assurance that we will bring a comprehensive bill to deal with the whole operation of maxi-taxis. At the moment we are here debating because a crisis erupted out of a court decision and every single Member of this House has the ability and the power to vote responsibly and correct that crisis. I ask them to consider and be reasonable. Thank you, Madam Speaker.

6.05 p.m.

Mr. A. N. R. Robinson (*Tobago East*): Madam Speaker, I wish to assure the hon. Member for Diego Martin West, that I shall endeavour to the best of my ability to be both reasonable and responsible.

At the commencement of the sitting and the address of the hon. Attorney General, I sought to ask a few questions. They were not intended to be an annoyance, but to assist me in forming my own judgment on the implications of this bill. This was particularly necessary because I had not seen it before the sitting this afternoon. I must say, the hon. Prime Minister—and I must commend him—called me at my home last night and sought my support for the bill. It was a commendable act. It was only that I had not seen the bill and I gave him the assurance, as I gave the hon. Member for Diego Martin West, that I would be reasonable and, of course, I go further and would say, do everything I possibly can (within reason), in order to co-operate—to use that term—with the Government. When I looked at the bill and I saw certain aspects of it, it was necessary for me to ask questions. I hope the Attorney General did not take offence at that.

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Firstly, the bill is entitled, "An Act to re-enact the Maxi-taxi Act Chap. 48:53". *Simpliciter*, as we lawyers say. Then I looked at the Explanatory Note, and it says—apart from specific aspects in which the bill differs from the original Act—that the opportunity was also taken to revise and re-write a few of the provisions of the Act, and I emphasize, “notably”, in the area of penalties. So it was not only in the area of penalties, it was notably in the area of penalties. Presumably, there were other areas, and the opportunity was taken to revise and also to re-write. We know what law revision means.

What I was seeking to do, as I had not been able to acquaint myself with the provisions of the bill, was to try to induce the Attorney General to explain to me more fully what were the particular provisions which would be caught in these descriptions which appear in the Explanatory Note. I also sought to elicit some information from the hon. Member for Diego Martin East. Unfortunately, I also got the impression that I was being somewhat impertinent. But the fact is these difficulties are there.

When I first went to university 40 years ago, my tutor in Moral and Political Philosophy invited me in and told me something which surprised me. He said, you have not come here for us to teach you anything. I looked at him. I was shocked. Why am I going to university if I had not come there for them to teach me? He said, “what we would do is to assist you to form your own judgment and to act upon it.” That has guided me through life. So, whatever anybody else may say and whatever opinions they may express, my responsibility is to form my own judgment and act upon it. That responsibility is all the more important, and all the more precious, and all the more to be guarded, when I represent a constituency, which I do. I represent people in the constituency of Tobago East. When I have no opportunity to consult my constituents or indeed to consult anybody, the responsibility is all the greater.

So that, I had to approach this bill from the point of view of: What am I doing? What are the likely effects? What are the consequences of exercising my vote, and at this moment it appears to be a highly critical vote. I did not put myself in this position, and it is certainly not a position that I enjoy being in. One does not like to have such a weighty responsibility resting on one's shoulders because we are told, and I am prepared to believe that the country is in crisis; that there are thousands of maxi-taxis which could be smashing about in a short time—if we do not act responsibly—and could be knocking people down and creating chaos on the roads, and there will be no proper insurance to cover

persons. You cannot cover them when they are dead, but at least enable some of the survivors to obtain some kind of compensation for those who have departed.

I am quite prepared to believe all this and to sit all weekend on this legislation if it is necessary, if indeed that situation exists. I cannot speak for my colleagues on my right, but I can say for myself that if indeed such a situation exists, then I am prepared in the interest of public safety and public order, and therefore, the avoidance of chaos and confusion to sit in this Parliament all weekend, Saturday and Sunday if necessary. I am booked to return to Tobago on Monday, but I think what needs to be done can be done within that period.

What I am going to suggest is this. I make a compromise proposal to the Government for what it is worth. I have been unable, in the time available to me, to assess all the implications of this legislation, which is very important. I have not been able to consult even with my colleague, the Member for Tobago West, and certainly, not with any of my constituents or any member of the public at all.

There is at least one fundamental change in this legislation, it appears to me, and that is the provision which opens licensing to the public at large. Rather than restricting it to the owner and operator of a maxi-taxi, it opens it to applicants at large. That to me is a fundamental change in the legislation, apart from other changes that may have been introduced.

I expressly asked the question in the course of my questioning at the commencement of the proceedings, whether the Government could not re-enact the legislation in the original form, avoiding the complications that necessarily arise and which might not in normal circumstances give rise to any insuperable difficulty. What I am saying is the time factor, the inability to use one's reason and judgment. Surely, the exercise of responsibility and the use of reason and judgment do not mean throwing them out of the window. If I have a provision before me which does not enable me adequate time to consider the implications of that provision, then certainly, that is asking me to throw my reason out of the window.

6.15 p.m.

May I say that in circumstances such as these the youthful Attorney General should not think that every Member on the side opposite to him is an inscrutable and intransigent opponent. I do not think there are any. Certainly, he should not think so, and certainly, nor members of the profession to which he belongs, I think he can gain some professional sympathy in circumstances where difficulty

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in enacting legislation occurs and the situation demands that rather expeditious measures be adopted, which are not in the normal course of parliamentary procedure. He could communicate by telephone. There are ways and means of communicating. There are many fax machines these days. I do not own one, but I think I can have access to one. Even during the tea interval, there could have been some communication. After all, that is what Parliament is all about. If you are in a difficult situation, you communicate. You state what that difficulty is and you give Members of Parliament the opportunity to lodge whatever objections they may have and which can be overcome by adopting certain measures.

Parliament is not an inflexible institution. We do not adopt rigid positions and stick to them regardless. We all are concerned with the public interest and welfare of the population. We may have our different approaches, we may have our different points of view, but we are all concerned, that is why we are here. That is why we are elected. Consequently, there are numerous opportunities which one can use in situations of this kind. Unfortunately, those mechanisms have not been invoked on an occasion which is regarded as very critical and a matter of crisis to the national community.

Nevertheless, as I said, I shall make a proposal which I hope can save the day and have legislation in place which will serve the purpose. It will not serve other purposes which are not as urgent or immediate as the purposes of the original legislation. What I propose is that we revert to the terms of the original legislation as far as possible and have that passed. I would be prepared to support that. Other matters can be dealt with on another occasion when the situation can be looked at more comprehensively, but at the moment let us confine ourselves to the crisis, get it out of the way and get on.

May I also say that in those circumstances I would expect the Attorney General to say very clearly that he will not proceed with the appeal.

Thank you.

The Prime Minister (Hon. Patrick Manning): Madam Speaker, permit me right away to congratulate the hon. Member for Tobago East on his maiden presentation before this honourable House in this session.

You will recall that not too long ago I made a statement that if the hon. Member for Tobago East, occupying the unique position that he does, would see himself and act as an elder statesman, we on this side would treat him as such.

You see, we ourselves are very concerned about the norms that we establish in the society and the traditions that we leave for those behind us.

I want, therefore, to congratulate him, not just on his maiden presentation, but also on the approach that he took this afternoon. Not that I fully agree with it, but the fact is that he argued very cogently what his position was and made an alternative proposal. I want to indicate to him also that if he felt that the mechanism of consultation which is available to Members of Parliament were not invoked in the period of our break at 4.30 p.m., it was not because we meant him any discourtesy; it was merely because he had not yet made his contribution to this honourable House, and therefore, there would have been no basis for discussion.

In fact, we on this side were of the opinion on the basis of the questions raised by the Member for Tobago East that he had some difficulty with some aspects of the legislation, and therefore, the speakers that followed sought to address the questions raised by him. We were of the impression—turning out now to be mistaken—that the issues were appropriately attended to. Now that we realize that this is not so, I assure the Member for Tobago East, as indeed I assure all Members of this honourable House, that the mechanism of consultation is one that we will continue to use. The Government is committed to consultation, not just at all other levels of the society, but most importantly, in this Parliament.

The hon. Member for Tobago East was generous enough to say that the Prime Minister communicated with him last night. Unfortunately, the Leader of the Opposition was not generous enough to say that the Prime Minister also consulted with him.

Mr. B. Panday: I am so happy that the hon. Prime Minister has defined the word “consultation” at long last. He phoned me just as he did the hon. Member for Tobago East and he calls that consultation. Thank you kindly.

Hon. P. Manning: Madam Speaker, when I listened to the contribution of the hon. Member for Couva North and when I compare it with the contribution of the hon. Member for Diego Martin West, the contrast—

Mr. Robinson: May I also say that I do not regard the communication last night as consultation either.

Mr. Maharaj: I wonder if the hon. Prime Minister would say if he considered it right communication and/or consultation for him to ask a Member of this House for his vote without ensuring that the Member has a copy of the bill.

Hon. P. Manning: There lies the crux of the matter. Before I deal with that, let us look at the contrast between the hon. Member for Diego Martin West and the hon. Member for Couva North. The contrast marks the difference between those who aspire and those who achieve.

Mr. B. Panday: I do not think you should speak so evil of the Member on the other side.

6.25 p.m.

Hon. P. Manning: I am in sympathy with the comment just made by the hon. Member for Tobago East. In no way could you consider a phone call consultation.

Indeed, if I am permitted by him, just to repeat what he said earlier on, that because he had not at that time received a copy of the legislation he was in no position to discuss it intelligently. Therefore, Madam Speaker, if there was no consultation, it was not because the attempt was not made or that the intention was not there.

The records will show, as indeed the hon. Member admitted himself, that the call was made but he was not in a position to proceed because the legislation was not in his possession. I can tell you now, Madam Speaker, that had the legislation been in his possession last evening, I certainly was in a position to continue the consultation.

Many of the arguments that have been advanced here have centred on legal considerations. I am always very careful how I get involved in arguments of that nature, but it is also very important that the Members of this Parliament who have not been here for a very long time are not permitted to be initiated into the Parliament in a manner that does not give them the broadest possible perspective of what the Parliament is all about and how it can be used and abused.

The Members on this side of the House, in the run-up to the general election, no doubt, would have heard me say—those on the other side may not have heard; they did not attend our meetings—that as a politician who has dedicated over 20 years of his life to the profession of politics, I am very concerned that the profession be viewed by the population in a way that is a credit to those who are Members of it. I have always said it. I go on further to say that if, today, the profession of politics has been brought into disrepute, that is as a consequence of the action of the practitioners, as a consequence of the actions of the politicians themselves. They have no one to blame but themselves. I have said that several times.

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The corollary is also true; that is to say, if it is that we wish to have the profession of politics viewed with any dignity in this society, then we have to conduct our affairs in a manner that gives rise to confidence in the people.

I was a Member of this Parliament in 1979, when the bill was passed. I remember the debate well. A Member of the legal fraternity—he is not here to defend himself and therefore I will not call his name—was a Member of the Parliament, an eminent legal luminary, arguing on this matter that there is no such thing as a maxi-taxi; it is a mini-bus. That was the argument in 1979: It is not a maxi-taxi; it is a mini-bus, and therefore already covered by the legislation that governs the operation of the Public Transport Service Corporation. So that what therefore the Government was seeking to do was virtually null, void and of no effect. I heard the argument in here. It brings starkly into focus the reality that when legal luminaries speak it is a matter of opinion. They speak passionately and they are very dramatic if they want to be and they can present their cases in a manner that can appeal to your emotions rather than your reason. At the end of the day, Madam Speaker, it is one opinion versus the other.

Therefore, when the hon. Members for Couva South and Couva North, began to raise questions about the direction in which the Government should have gone in seeking to deal with this matter, I can only say that the legal advisor to the Government is the Attorney General and an Attorney General, I assure you, in whose ability I have the greatest confidence. In saying that, Madam Speaker, I am sure you would know that I have sat in government with many attorneys general, including the one who was responsible for the Act which has been struck down by the court as being unconstitutional, null, void and of no effect. He was my colleague; he was the colleague of the Member for Couva North; he was also the colleague of the Member for Tobago East. I could clinch the point if I wished, you know, but I do not wish.

It is a question of opinion, but it is also a question of responsibility. You can take the position and we always knew it, Madam speaker—do not believe that we got any surprise today—that at the first opportunity that the Members on the other side got they would seek to do what they believe would embarrass the Government. That is what they think. We never had any doubt that that is what they would have sought to do.

In response to the comment from the hon. Member for Diego Martin West, you say "yes, if there was an equal opportunities Commission, we would support the bill with amendments." If they got no equal opportunities commission, they

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would not support the bill, amendment or no amendment; that is what they are saying. It has absolutely nothing to do, in the minds of the Leader of the Opposition and those who support him on that side of the House, with the difficulties that the population out there will face as a consequence of the decision of the court—and the court acted in its own right. They are not concerned with that.

Mr. Maharaj: I wonder if the hon. Prime Minister would give way to a sensible question. Since the Prime Minister has got up to respond, and since he is the head of the Government, would he say, what protection, having regard to the new provision, persons who are injured have to, in effect, prevent allegations that people are independent contractors in order to avoid meeting claims?

Hon. P. Manning: Let us assume, Madam Speaker, for the sake of argument, or, as the lawyers would say, "assuming but not admitting"—Let us assume that the law does not, in fact, take into account the point made by the hon. Member for Couva South. I want him to give me the assurance that if we amend the law to take that into account, assuming that it does not, they will support it. I sit down for him to respond.

Mr. Maharaj: I suggested many amendments, even with respect to that, and if that side decides on certain amendments which are fundamental and are undertaken to withdraw the appeal, we would support it. We are responsible politicians. We have suggested that.

Hon. P. Manning: Madam Speaker, in those circumstances, I want to draw to the attention of this honourable House and to the country that some Members on this side are due to leave the country over the weekend on Government business. In the case of the Minister of Finance, who is due to go on Saturday, which is tomorrow, he is going abroad to assist in raising US \$100 million, which has already been fully underwritten by reputable bankers and which, as this honourable House is aware, forms a part of the proposals that were put before the Parliament in our budget presentation. It is an essential element in the financing of the affairs of the country for the year 1992.

Madam Speaker, in the light of what has now transpired in this debate, the hon. Minister of Finance has been instructed not to leave and I am proposing that the House do now adjourn and that we meet tomorrow to consider this bill which has been the subject of discussions on all sides and something with which all of us can live.

We have to decide once and for all, whether, as Members of Parliament, we are going to be reasonable, or, as Members of Parliament, we will not be reasonable. I wish to pause at this stage and I will resume when the House resumes its sitting.

ADJOURNMENT

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Madam Speaker, I beg to move that this House do now adjourn to Saturday, May 30, 1992, at 1.30 p.m.

Madam Speaker: On the last occasion I had allowed the Member for Caroni East to raise a matter of public importance.

Poultry Industry (Contract Farmers' Plight)

Mr. Shamshuddin Mohammed (Caroni East): Madam Speaker, this matter has been getting into some problems, I must say, because it was supposed to be moved on the last occasion. When the motion for the adjournment was, in fact, moved, we were informed by the hon. Leader of the House that the Government had not received notice of this matter, although I had complied with the provisions of the Standing Orders.

This is a matter which I am raising under Standing Order 11(2) and (3), the subject matter: The state of the poultry industry in Trinidad and Tobago, with particular reference to the problems now being faced by contract farmers.

Madam Speaker, I must say that we have had a very fruitful session of Parliament today and that we have received much advice, including also how members of the public perceive Members of Parliament to be. I want to give the unqualified assurance that we on this side of the House perform our task with a high measure of responsibility, and we are brim-full of confidence that in the not-too-distant future we shall be sitting on the other side.

What we do not like is any attempt to make it appear that things are a *fait accompli*. The courtesies that are supposed to be extended to Members of Parliament ought properly to be extended; we will not be subjected to badgering, and that we talk about co-operation and a helping hand.

My friend, the Member for Diego Martin West—

Madam Speaker: The hon. Member was allowed to raise the point of the poultry farmers and I thought that this was the point that he was going to raise.

Mr. Mohammed: Madam Speaker, one must set one's parameters if one is to make a proper contribution.

My friend, the Member for Diego Martin West has to respond to me, and it is he who made remarks in this honourable House on the last occasion that we are gallerying to the public. That is a statement that has been made in the House here.

Madam Speaker: I would advise the hon. Member to let bygones be bygones and concentrate on the poultry farmers, the issue which you would like to bring to the House.

Mr. Mohammed: My issue is very short to raise, but I am making this motion very clear. Because it is the Member for Diego Martin West who has to answer me and he may come with the same thing because he has the last word. I want to assure him, that it is our business to gallery, but he takes the living-room, the drawing-room, the kitchen, and he does not "gallery" only in the House; we saw him on TV anticipating this particular matter that we have here on the agenda.

Having said that, the issue that I wish to raise relates to people who are called contract farmers in Trinidad and Tobago. These are people who produce some fifteen million birds in the country, averaging about 60 million pounds of chicken. That is our production. They represent about 75 per cent of the chicken production. Chicken remains our cheapest source of meat protein. These farmers have a very serious problem at the present time. It is one which needs to be aired in this Parliament; a problem the facts of which my friend, the Member for Diego Martin West, perhaps by now, having regard to the length of time that my motion was filed, may have become seized. I hope therefore that he will be able to respond, to assure the contract farmers in our country that the situation that now exists will soon be brought to an end.

I want to congratulate the hon. Minister because I have raised in this House on a former occasion the question of the shrimping industry and the NFC, and I now have good news that the hon. Minister was able to meet with the people who were involved. I must compliment him on that. It is a matter which he must pursue as Minister of a most important ministry.

The food supply situation: Almost every section of food production in this country is undergoing some measure of crisis at the present time. I am happy when I hear that at long last the hon. Minister is sitting down to dialogue with the

people down at NFC. If we stand here where there is cause to hit blows we will do that and where there is cause to praise we will do it too. I want to encourage that frame of mind and that attitude in respect of the poultry industry.

We have not heard any policy being enunciated by the Government thus far with regard to the poultry industry. The whole food situation is in chaos. I have asked my friend to arrange for a secret visit to the Central Market in Port of Spain where farmers have to dispose of their produce. I have not had a response from him yet. The pig industry and the beef industry have serious problems. These people have no proper marketing to dispose of their production.

What is happening in the poultry industry is that at the present time the contract farmers, as they are called, exist on the basis of a contract between the contractors and themselves. One would expect, in arriving at a contract, that they will have proper dialogue, an offer and an acceptance, rudimentary principles of the law of contract, that they will sit down around a table and discuss these terms and conditions. My instructions are that has not taken place. What, in effect, has happened is that these farmers are handed a contract by the contractor and told to sign here and these are the arrangements. This has proved to be a very serious situation because the farmers are now contending that they do not enjoy any profit that will allow them to exist in any reasonable way.

I shall give an example. I have in my hand what is called a draw-out slip received by one of the farmers. He placed 17,500 chicks in his pen. The mortality was 1,913. The feed delivered was 1,604 bags. The feed returned was 61 bags. The feed used was 1,543 bags. The farmer's gross income: \$143,663.55. The meat cost \$139,470.55 and there were miscellaneous imputs. What this farmer collected, in fact, from the contractor for his share out of this whole production was \$3,818 spread over an eight-week period. That is the gravity of the situation. There was another farmer with 5,000 birds who drew only \$147.00.

But what is involved in this, the \$3,818 is that out of that the farmer is responsible for paying electricity; looking after cleaning of his pen; looking after spraying of the pen; putting bagasse in the pen; ensuring that the pen is in a good condition, that there are no leaks and termites and what have you; installing waterers; enclosing a smaller area for the baby chicks; giving daily attention throughout this eight-week period to the chickens that are on his farm. He has to look after the feeding; the watering; to put in the necessary vaccine; to provide vitamins; to pick up the dead birds; to clean and turn the bagasse; to be vigilant for 24 hours a day.

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Madam Speaker, in eight weeks, to receive \$3,818 you can imagine what is his position: He has to live on that. Do you know what complicates the situation, Madam Speaker? He has a commitment with the Agricultural Development Bank. No reason to doubt that this particular farmer had to be the subject of many pressures. His home was broken into; his home is on the farm. Several robberies in his place. In fact, people were apprehended and it is eight years now but the matter has not been determined in the courts of this country.

The newspapers carried reports of the robberies at this particular farm. The man lives under tension. That is how he has to exist in this scenario. He is not the only one; I am not speaking about him alone. I am speaking about the 500-odd contract farmers that we have in Trinidad and Tobago, many of them are going through the same trials and the same tribulations, and this is what we have to bring here. This is what we have to talk about and this is not a matter of “gallerying”. We are responsible people, therefore we must articulate the problems of the country and hope that they will propel the Government into some kind of action as indeed my friend the Member for Laventille West did just a couple of Fridays ago. School was closed for two weeks but because of the Members for Caroni East and Caroni Central we are happy to report to the House now, lots of water in Caparo. The school is back, it is open. I am happy with that type of response.

When we raise matters here, we are concerned about what is happening. Perhaps to shorten everything let me give an idea of what the situation is. There is another farmer who over the period 1983 to 1991, experienced a total of 13 robberies committed against his farm. The average monthly cost of labour, telephone and normal living expenses exceeded \$2,500 per month. The average monthly return from the sale of chickens between 1986 and 1991, amounted to approximately \$1,833.00. Therefore, it was impossible to make any payments with respect to the servicing of the loan from the Agricultural Development Bank.

“In reality, I had to draw on my pension, meagre savings of previous years and supporting income from my children in order to survive.”

That is the plight I am talking about here. This obtains throughout the farming community—the hardships that they have to endure.

You may recall what was paid and a desire and an intent to honour the commitment with the ADB, but he cannot do so because of the very poor income received from his chicken business. Hear what the psychiatrist has said about this man, and it is important because they are suffering:

“This man has come to see me today for treatment of an adjustment disorder which has been brought on mainly by the stressful circumstances in which he lives on his farm.”

This is what is happening, Madam Speaker. The situation has reached a stage now where there could be peace. I think that the farmers themselves will owe some gratitude to the contractors who have been able to provide them with this contract, but there is an oddity in the situation. I think the Ministry of Agriculture has done some sort of assessment, “The Comparative Profitability of a 20,000 Batch of Chickens Under Varying Criteria”.

You take a batch of 76,000 chickens. The cost of the feed to be utilized there, \$109,440; the cost of the chickens, \$43,000; the cost of the medication, \$5,000; the cost of up-to-desired growth, \$157,440. The total income from the sale of the broilers, \$167,200. The farmer’s income out of that, \$9,760 and the farmer’s income per bird, \$0.49.

The weakness in this is that nobody knows the true cost of production of the feed that is supplied to the farmers. The farmers do not have an opportunity to sit down and discuss what the cost of feed would be to them. So the contractors are given the explanation, while a contract is between two parties and the two parties are not sitting down and having a dialogue. The farmers feel that there should be that sort of mechanism whereby they should have the opportunity to discuss these matters so that you give a figure here for the amount of feed to be used for a 20,000 batch and when you get your slip, you say the cost of the feed is so much.

The same thing applies to medication. There is no discussion between the parties. In contracts you must have consensus *ad idem*; that does not exist in these contracts with the farmers. The same thing applies with the cost of the chicks. So what the farmers are saying is that they would like to have an input into the determination of the contract so that they can assess the costs of the feed and the cost of the medication and the actual cost of the broiler chicks. They do not know whether they are getting the retail price or some exorbitant price. That is what they are concerned about. They are required to put up a pen that may hold 15,000 chickens. The space, therefore, of that which could accommodate an extra 5,000 chickens, is wasted. They need to be compensated and they need to talk to the people about this. But some problem is going on.

The people who have come to me are ordinary farmers. They have an association and I have not had any face-to-face discussion with the president of that Association, although he was kind enough to given me some information and

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talked to me once for probably a minute and a half on the phone. What I am talking about here represents the feelings of the people and of the ordinary farmers and I will tell you this: because of the cost factor that is involved here in rearing a growth of chickens, you do not have farmers who have that kind of capital. So they are sandwiched; they are caught in a situation where if they expose themselves too much or they come out too much, the contract will be easily withdrawn for the next batch. They need help desperately. As the food crop farmers need help, as the people who are engaged in other areas of food production in this country, they need some attention to be given to them.

6.55 p.m.

It is not a situation where I expect the hon. Minister to force a contract. I do not expect that. But the hon. Minister wields considerable influence and I think his great persuasive capacity can be deployed in the interest of the poor farmers of our country, by getting the people together.

Madam Speaker, I do not know what happened, but I know we served notice about this motion quite some time. I am aware, too, that they had communicated with him a couple of weeks ago, and there was some problem, perhaps, in having a meeting with the hon. Minister. I think he had delegated the Parliamentary Secretary at or around the same time, but they could not see him at all. However, I am happy to announce that I got news a while ago that the Minister saw them yesterday. So, I say, thanks to the motion that was filed, and indeed we hear many things from that side as a result of our questions and motions. I want to congratulate the Minister on the news that I have received.

Dr. Rowley: That had nothing to do with your motion.

Mr. Mohammed: He may say that it is not because of the motion, but it could be very coincidental that he did not see them all the time, but as the motion appeared on the Order Paper he has seen them. I do not mind that. I compliment him.

We, on this side, look forward—we do not want to get confrontational or too adversarial—to the Minister carrying on with his meeting, June 10 or whenever it might be. We trust that he will seek to bring the parties to the table by his persuasive ability. I am sure he will be able to do that and that he will continue to give his attention to the area of the food supply of this country. We need to do that. We need to examine that. Maybe, he will have to appoint some special team to look at the whole food business in Trinidad and Tobago, because it is food for

us all to eat. What we, on this side, say is, it is foreign exchange saved; it is foreign exchange earned.

Madam Speaker, I thank you and the hon. Minister, Member for Diego Martin West, very much.

The Minister of Agriculture, Land and Marine Resources (Dr. The Hon. Keith Rowley): Madam Speaker, I wish to comply with the numerous requests that I have had from Members of the House to deal with this in as few minutes as possible, and we should be out of here pretty soon. I can probably respond to the contribution of my friend and colleagues, the Member for Caroni East, by simply saying, yes, and sit down because I will not change very much. However, just to put things in their correct perspective and to give this honourable House the assurance that, as Minister responsible for food production in this country, I do not respond only to motions in the House but to motions on the farm as well.

The situation with the poultry farmers, unlike very many other sub-sectors in the agricultural sector, is, as the Member pointed out, one of some aggravation, some frustration, high prices, and problems; in this case with the poultry farmers' contractual arrangements. There was a time when the Government had put the price of poultry meat under control and that was in keeping with the fact that the Government provided a measure of subsidy. Under those conditions the Government did have some direct involvement in the industry, as a financier and controller. However, as you would know, Madam Speaker, for quite some time now the subsidy on poultry products has been removed. To the extent that kind of influence exists with respect to the regulation of the poultry industry in respect of prices, costs, and so on one has to understand the role of the ministry in all this.

As the Member pointed out, there was some confusion with an understanding; not only the communication aspect of things, but in understanding the role of the ministry. When I was assigned this portfolio on Christmas Eve of 1991, the following month, one of the things I embarked upon was to meet with the various umbrella organizations representing the sector. In the month of January, I had a meeting with the Agricultural Society of Trinidad and Tobago, which is an umbrella body representing the interests of all the sectors, and at that meeting there were representatives of the Poultry Farmers' Association. We had a very cordial meeting and they raised there problems with respect to the ADB and the farming conditions, flooding, and the usual problems which go on from year to year. That was in January. I agreed to meet with the groups separately, later on, as the ministry settled down under my tenure.

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In early April, the Secretary of the Agricultural Society of Trinidad and Tobago indicated to me that this matter with respect to the contractual arrangement between the poultry growers and the processors is one of some concern to them. In fact, in early April, she indicated to me that the Agricultural Society is assisting the Poultry Farmers' Association in drawing up what they consider to be a more reasonable contract document, and that she would keep me informed and, in fact, would present me with a copy of the contract document in the near future. So it was a situation where the umbrella body was looking at the specific problems of one of the sub-units, and the Minister encouraged that, but at that time there was no role or reason for the Minister to get up and beat a pan. I was very happy that the Society was playing that role, and I will continue to encourage them to do that. That was in early April.

By late April I did receive from the Secretary of the Agricultural Society a copy of the draft contract. The information I received was that this was the contract which the poultry farmers would wish to have introduced into the industry. There are a variety of contracts. There is no single contract between poultry farmers and processors. There are a number of processors and there are a large number of farmers and there are also a large number of contractual arrangements. As you will know, Madam Speaker, under our laws in the country, individual parties can enter into contracts, bilateral arrangements, which they freely enter into, having checked the terms and conditions. So, as of now, contracts have been entered into.

The farmers complain that some of the terms of the existing contracts are onerous. As the Member pointed out, some of the business arrangements, the price considerations, and such, cause it to be that way. It is virtually impossible for them to make money, survive and stay in the industry. So what they are seeking to do is to have those onerous conditions in the contract re-negotiated.

Having received a copy of the draft at the end of April, during the first week of May there was some confrontation which was widely carried in the press. The situation was that the parties could not get together to discuss this contract, and the first thing I knew out of this situation was that the Minister was being given an ultimatum to have the contract signed by the processors. However, having seen that, what I did at that time was to respond to the Agricultural Society with whom I have been dealing on this matter, since that was the umbrella organization that had informed me that the problem existed and what direction they were pursuing.

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I communicated with the Society and I said that I did not know there was a problem leading to this kind of confrontation, and the Society responded, by letter, recently, apologizing for the communication breakdown and all of that.

Subsequent to that, I agreed to meet with the Society. It was at that time that the motion appeared, quite as a surprise last Friday. I met with the Society and the sub-unit on Wednesday, I think it was. The matter was ventilated, and I made it quite clear what the role of the ministry was in all of this.

The ministry has no authority to impose a contract on processor. A contract is a bilateral arrangement. However, the ministry has a responsibility, as quite frankly put by the Member for Caroni East, to see that it takes all steps to ensure the food security of the country. So, the ministry assumes the role of seeking to assist the farmers and the processors, because they need each other, to come together to discuss this problem of the nature of the contract.

7.05 p.m.

What transpired at the meeting was that the Agricultural Society, acting on behalf of the poultry farmers, which are under that umbrella organization, will present to the Minister in the coming days, a memorandum outlining all the difficulties with the existing contract, much as the Member for Caroni East sees it. Also, the society will present to the Minister a draft contract situation. The ministry has undertaken, on receipt of these documents, which will clearly represent the positions of aggravation, to communicate with the processors and ask them to deal with these matters to the end, Madam Speaker, of bringing together both sides to discuss what, in effect, is a clearly identified problem.

My ministry has a Poultry Schedule Officer whose job it is to oversee the industry. That officer has been working and communicating with the processor. We have a meeting set up to introduce to them the complaints of the farmers, and the end result is, we are working towards having mutual dialogue over this matter. Because until we reach that stage, the situation of confrontation and seeking to have a contract enforced is just not on. The Ministry could not play a role in that. However, we can now play a role. We offered to play that role that we must play, which is the role of mediator in a problem which seriously affects the poultry industry.

At this stage, Madam Speaker, I can tell you that I have had no communication as yet from the processors. I do not know what their position is with respect to the existing contract or the new contract. However, I can assure

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you, that the ministry will leave no stone unturned to get dialogue between both parties, hopefully to enter into contracts which are mutually acceptable and to the benefit of all of us.

Thank you, Madam Speaker.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 7.07 p.m.