

*Leave of Absence*

*Friday, March 04, 1994*

**HOUSE OF REPRESENTATIVES**

*Friday, March 04, 1994*

The House met at 1.40 p.m.

[MADAM SPEAKER *in the Chair*]

**PRAYERS**

**SPECIAL PRAYER**

*At this time, O Heavenly Father, we, the Members gathered in this House, call forth Thy rays of light, love and healing, as we direct these rays to our brother, Morris Marshall. We place him into Thy care, into Thy light and we have faith that only Thy will is being done in him, through him and for him, and for this we are indeed grateful. Amen.*

**LEAVE OF ABSENCE**

**Madam Speaker:** Hon. Members, I have granted leave of absence from today's sitting to the Member for St. Ann's East, Hon. W. Mottley.

**SENATOR'S APPOINTMENT**

**Madam Speaker:** I also wish to inform hon. Members that I have received a communication from the President advising that at a sitting held on Tuesday, March, 1, 1994, the Senate agreed to the following resolution:

*Be it resolved,*

That Sen. The Hon. Barry Barnes be appointed and nominated to serve as a Member of the joint select committee appointed to consider and report on the Companies Bill, 1993 in place of Sen. The Hon. Brian Kuei Tung who has ceased to be a Member of the Senate.

**MINISTER'S ILLNESS**

**Mr. Basdeo Panday** (*Couva North*): Madam Speaker, before you embark upon today's other business, would you kindly permit me, on behalf of the Opposition and on my own behalf, to place on record our deep concern for the health and well-being of the Member for Laventille, the hon. Minister of Public Utilities, Morris Marshall.

Madam, his illness did not come as a surprise to us because we were aware of the fragile nature of his health, but the extent of that illness causes us great concern.

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We wish to join with all those who pray for his speedy recovery, so that he may soon return to take his seat in this honourable House. We wish him Godspeed.

**Mr. Valley:** Madam Speaker, we were under the impression that we would be doing this at another stage of the sitting.

**Mr. B. Panday:** I am sorry.

**The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley):** Madam Speaker, the Government notes and appreciates very much the concern of the national community with respect to the sudden illness of our brother, our friend, Morris Marshall. Members of the Cabinet and, indeed, the Prime Minister, are in daily contact with the hospital and we are extremely hopeful, given that there seemed to be a very slight improvement in his condition. At our meeting yesterday, the Cabinet said a prayer for our brother and friend. We do wish him a speedy recovery and look forward to his rejoining us shortly. We appreciate very much your sentiments in your prayer and those of the Leader of the Opposition.

#### PETITION

#### **Nrityanjali Theatre Institute for Indo-Caribbean Arts and Culture**

**Mr. Raymond Palackdharrysingh** (*Caroni Central*): Madam Speaker, I wish to present a petition on behalf of the Nrityanjali Theatre Institute for Indo-Caribbean Arts and Culture of No. 1 Fourth Street East, Beaulieu Avenue, Dinsley Gardens, Trincity.

I ask that the Clerk be allowed to read the petition, and that the promoters be allowed to proceed.

Thank you.

*Petition read.*

*Question put and agreed to, That the promoters be allowed to proceed.*

**1.50 p.m.**

#### PAPERS LAID

1. The Privileges and Immunities (Caribbean Financial Action Task Force) Order, 1994. [*The Minister of Foreign Affairs (Hon. Ralph Maraj)*]
2. Report of the Auditor General on the accounts and financial statements of the Global Pre-Investment Programme and the Technical Co-operation

Agreement for the year ended December 31, 1992 as required by Loan Contract 550/OC-TT and the Non-Reimbursable Technical Co-operation Agreement ATN/SF-3159-TT respectively between the Government of the Republic of Trinidad and Tobago and the Inter-American Development Bank. [*The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley)*]

3. Report of the Auditor General on the accounts and financial statements of the Technical Assistance Loan Project for the year ended December 31, 1992 as required by Loan Contract No. 3153-TR between the Government of the Republic of Trinidad and Tobago and the International Bank for Reconstruction and Development. [*Hon. K. Valley*]
4. Report of the Auditor General on the accounts of the Nariva/Mayaro County Council for the year ended December 31, 1984. [*Hon. K. Valley*]
5. Report of the Auditor General on the accounts of the Nariva/Mayaro County Council for the year ended December 31, 1985. [*Hon. K. Valley*]
6. Report of the Auditor General on the accounts of the Nariva/Mayaro County Council for the year ended December 31, 1986. [*Hon. K. Valley*]
7. Report of the Auditor General on the accounts of the Nariva/Mayaro County Council for the year ended December 31, 1987. [*Hon. K. Valley*]

*Papers 2 to 7 to be referred to the Public Accounts Committee.*

#### ORAL ANSWERS TO QUESTIONS

##### Local Government Bodies (Allocations)

**51. Mr. Sahid Hosein** (*Siparia*) asked the Minister of Works and Transport and Minister of Local Government:

- (a) Is the Minister aware that most, if not all, local government bodies will begin 1994 with significant deficits in their goods and services allocation, such deficits being caused by unpaid debts to suppliers being brought over from the 1993 accounts?
- (b) If the Minister is so aware, will he state what steps he is taking to ensure that these bodies will still be able to provide basic services, especially maintenance of roadways, during 1994 in spite of the severe curtailment?

- (c) Is the Minister, and his Government, prepared to take steps to "wipe off" the 1993 arrears of these bodies so that funds allocated for 1994 can actually be used for the purposes indicated in the *1994 Draft Estimates*?

**The Minister of Works and Transport and Minister of Local Government (Hon. Colm Imbert):** Madam Speaker, the Minister of Local Government is aware that local government bodies have large outstanding commitments which can negatively impact on the 1994 programmes.

Consequently, the ministry is exploring with corporations the possibility of combining several options to ensure continued delivery of basic services. Options being considered include: greater cost effectiveness in programme implementation, virements and an approach to the Ministry of Finance for supplementary funding to meet the unpaid bills.

**Local Government Bodies  
(Wages)**

**52. Mr. Sahid Hosein (Siparia)** asked the Minister of Works and Transport and Minister of Local Government:

- (a) Will the Minister indicate to this House how he intends to deal with the shortfall in wages to local government bodies?
- (b) If it is the intention of his ministry to reduce the workforce at local government bodies, will he indicate to this House how this is going to be effected and how many persons are going to be affected?

**The Minister of Works and Transport and Minister of Local Government (Hon. Colm Imbert):** Madam Speaker, while there is a shortfall in wages allocated to local government bodies, provision has been made for payment of retirement and other terminal benefits to daily-rated workers in these bodies.

Agreement has been reached with the National Union of Government and Federated Workers, the majority union for daily-rated workers, on:

- (1) The reduction of the compulsory retirement age from 65 to 60 with effect from March 1994. (This decision will result in the retirement of workers in the corporations.)
- (2) A voluntary separation package for workers in the 50 to 59 age group. (The deadline for submission of these applications has been set for March 1994 and until these applications are finalized, the number of workers involved cannot be determined.)

The following questions stood on the Order Paper in the name of Mr. Trevor Sudama (*Oropouche*):

**Justice of the Peace  
(Legal Authority)**

- 55.** Could the Attorney General and Minister of Legal Affairs state:
- (a) Whether in the past two years any person purported to carry out the functions of a Justice of the Peace and/or Commissioner of Affidavits, such person not having the legal authority so to do?
  - (b) If the answer is in the affirmative, could the Attorney General state in what circumstances this situation came to the notice of his office?
  - (c) For what period the functions of Justice of the Peace and/or Commissioner of Affidavits were exercised illegally?
  - (d) The status of those matters in which the above-mentioned person purported to act as a Justice of the Peace and/or Commissioner of Affidavits?
  - (e) Whether his office intends to take any action in the matter?

**National Trust**

- 57.** Could the Attorney General and Minister of Legal Affairs state:
- (a) Why the rules and regulations provided for in the First and Second Schedules of Act No. 11 of 1991 establishing the National Trust of Trinidad and Tobago have not yet been promulgated?
  - (b) When are these rules and regulations expected to be put into effect to make the Trust a functional body?

**The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):** Madam Speaker, questions No. 55 and No. 57, regrettably, I am not in a position to answer today and I respectfully request a deferral of one week.

*Questions, by leave, deferred.*

**Debe Community Centre  
(Repair of)**

- 56. Mr. Trevor Sudama (*Oropouche*)** asked the Minister of Community Development, Culture and Women's Affairs:
- (a) Could the Minister state whether the Debe Community Centre is earmarked for repair in 1994 under the Community Centre Repair Programme of the ministry?

**The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley):** Madam Speaker, an estimate has been prepared for the repair of the Debe Community Centre under the Committee Enhancement Programme of the Ministry of Community Development, Culture and Women's Affairs and work is scheduled to begin in mid-1994.

**Mr. Sudama:** Would the Minister indicate the amount of the estimate for the centre?

**Hon. K. Valley:** Madam Speaker, it is about \$70,000.

**Madam Speaker:** Did the Member want to ask another question?

**Mr. Sudama:** I see this question directed to the Attorney General.

**Madam Speaker:** That has been deferred.

#### ORDER OF BUSINESS

**The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley):** Madam Speaker, I beg to move that the House continue the debate which was in progress on February 18, in other words, Bill No. 1 on the Order Paper, rather than the Motion which is listed at page 4 of the Order Paper.

*Assent indicated.*

**2.00 p.m.**

#### MAXI-TAXI (AMDT.) BILL

[THIRD DAY]

*Order read for resuming adjourned debate on question [January 21, 1994]:*

That the Bill be now read a second time.

*Question again proposed.*

**Mr. Trevor Sudama (Oropouche):** Madam Speaker, today we resume debate on a matter which has had great publicity in the newspapers, a matter which has been aired in the media unceasingly and a matter with which the Member for Diego Martin East seems to have a particular phobia, and that is, control of the maxi-taxi operation in Trinidad and Tobago.

As I seek to make my contribution to this debate, I am reminded of a book written by a political scientist/philosopher, Herbert Macuse, *One-Dimensional Man*. As I recall that book, I seem to think that something similar is happening in

this country, that we have, not only a one-dimensional mind, but also a one-dimensional Government, which is trying to establish a one-dimensional society in our country. When you see how the Government operates you will understand that its perspective is one-dimensional.

We have crime today as a burning issue which this country must address, and one is led to believe that the solution to the problems of crime and criminal activity will come merely from establishing some kind of discipline in the police service. So all focus is being placed on discipline in the police service—a one-dimensional approach—in the hope that this will solve, once and for all, crime in Trinidad and Tobago.

Then we have serious problems with the economy of this country, and one is led to believe that the possible successful drilling of one oil well down in the south of Trinidad will solve all our economic problems. One building goes up—I believe it is by Rahael—and we have a boom in the construction industry. Of course, all we need to do is to ban all forms of music in the maxi-taxis and suddenly we solve, not only the maxi-taxi problem, but also our transportation and delinquency problems. That is the level to which we have reached and the direction in which this society is being led by a Government without ideas, certainly without initiative and certainly incapable of giving any new direction to this society. So I make that opening comment to put this whole issue into some kind of perspective as to solutions to problems advocated by the Government.

As we approach the Maxi-Taxi Bill, the first question we have to answer is: What is the nature of the mischief we are trying to deal with; what is the cause of it? Are we trying to deal with the fundamental root cause of this problem, or are we merely trying to deal with the symptom, as reflected in the maxi-taxi culture in our country? Therefore, we need to look at the issue in its background and in its context. How did this allegedly uncontrollable behaviour, which is having such a deleterious effect on morals in our society and on the young people, in particular, come about in the first place?

I am submitting here that this problem arose firstly because of the gross and obvious inability of this Government to provide an adequate and cost-effective public transport system, especially with respect to the transportation of school children. One asks, where are their priorities? The Government has been spending money left, right and centre. The cost of renovating a kitchen and putting in a gym, do you know how many public transport vehicles that could have provided and maintained? But then, we have other priorities in this society.

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So that it is an inability of Government to deal with the public transportation problem in the first place which has caused this issue to arise. We must understand that the mode of transport is part of the environment which moulds and conditions the minds and the thought processes of young people, and the Government ought to have understood that in the first instance and understood the utility of an efficient and cost-effective public transport system, particularly for the transport of school children.

My contention is that if the Government had any foresight, any vision, then I do not think we would have had to confront this problem today. Therefore, its incompetence and abdication of its responsibility have been responsible for the deterioration in all aspects of life; the maxi-taxi system of transport is merely one aspect of life in which the Government's ineptitude is reflected.

I have been making representation for years for a bus to transport school children from my constituency, from the Debe area, from the Esperanza Village area, to the Barrackpore Senior Comprehensive School, which is a very difficult area to get to, but without success. I have been making representation for the transport of school children from the San Francique area, again, which, quite apart from the condition of the road, has very few public transport vehicles, to the Fyzabad Composite School. But I have had no success in attempting to get the Government to understand the problem which is faced by putting school children at the mercy of private transport.

**2.10 p.m.**

It is as a result of Government's inaction and insensitivity we are having this problem today; those parents who can afford to send their children to school—and there are many parents who cannot afford to pay private transport to take their children to school—resorting to the maxis-taxis and exposing their children to the whims, perversions, disorientation and violence that is the maxi-taxi culture. How was that sub-dub culture, we have been told, allowed to prosper? It was not created within the maxi-taxis; it was created outside, and the maxi-taxis have merely taken it up, popularized it and exposed the children to it. So, the source of the problem is really not within the maxi-taxi; it is outside.

Another reason for this problem being with us today, and the intensity with which we are experiencing it, is that the Government has allowed it to develop and reach crisis proportions, and is now taking belated, and draconian, action in an attempt to curb it. The high and deafening levels of noise emanating from maxi-taxis is merely but one symbol of the problem. How did this come about?



The loud music is part of the problem, but other elements of that problem are the manner in which some maxi-taxi drivers drive without regard for other users of the road; there is speeding, overtaking and some sort of general recklessness on the road. This is all admitted. The Opposition is not trying to say that these problems do not exist. Our question is: How do we come up with a solution for this problem?

What we are saying is that there is a reason for what has happened in the past and one must look at its background. One of the reasons for the problem we face today, with respect to the operation of maxi-taxis, is the mindless and uncontrolled, willy-nilly issuance of maxi-taxi permits which has induced over-competitiveness on routes, resulting in cut-throat hustling on the roads so that maxi-taxi owners may keep up with their instalments.

The Government has gone overboard with the free market principle of free, unbridled competition, without any concept of how many maxi-taxis any route can economically bear. That seemed to have never been a consideration. If a large number of maxi-taxis is allowed to operate on a particular route, there will be only so much traffic; therefore, the drivers have to get into intense competition in order to get that limited amount of traffic. What would be the result? Would it not be the very problems that we are confronted with today? As we discuss this, we again see the inaction, the inefficiency, ineptitude and lack of vision of the Government in the creation of this problem.

Another reason for this problem emerging is that the permits to own, drive and operate maxi-taxis seem to have been issued to all comers with no minimal screening. I want to make this point absolutely clear here today. Transporting members of the public is an extremely serious responsibility, and those who undertake it ought to be satisfactorily screened by the authorities concerned, to the extent that they can do so. I think if there is a proper system of screening, it would ensure that only responsible people are issued with permits.

How do we ensure that? Our contention is that here we have serious risks to life and limb and I understand—I am not sure—that all that is required is a Certificate of Character. What is a Certificate of Character? A Certificate of Character merely means that somebody has not had convictions; therefore, that deems an applicant to be fit to operate a public transport vehicle. That is all it implies from the police. We are saying that the Government has been lax in not insisting on higher qualifications in terms of additional recommendations which will give some indication of the character and suitability of people who are given permits to drive maxi-taxis.

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Again, if permits are given helter skelter, without due regard to the kind of people they are given to, then there is going to be a situation where there will be lewd music, pornography, immorality, recklessness and violence among some maxi-taxi operators. The Government has been deleterious in its responsibility to members of the community.

What we propose is that in order to get a permit, in addition to a Certificate of Character persons should get recommendations from two responsible, well-known persons in the community or community organizations in which they are going to operate. So that the authorities who are going to issue permits will have some more information about the background of the applicant.

We feel that to deal with this problem one really has to go to the source. We hold that if the regulation of the number of maxi-taxis on each route and the type of people permitted to operate them were in place, then the nuisance of the noise level could be substantially dealt with as well as other problems that we face with the operation of maxi-taxis.

We agree with the basic objectives of clause 9 of this Bill, that the noise levels have become such that they are having very serious and adverse consequences, particularly with respect to the transport of school children. Also, there can be no argument about the discomfort, trauma, risk to health and hearing, the hazards to the safe driving, that loud, uncontrolled and deafening sounds emanating from maxi-taxis can cause.

### **2.20 p.m.**

There can be no argument that this mischief has to be addressed and controlled. When we are making laws we cannot do so in an environment of hysteria—and that is what has been developed and promoted in this country by the Government, the press, and other media. We ought to do something very quickly; we ought to go for a complete ban.

Look at the hysteria that is being promoted and the various insinuations which have been made. I merely want to quote from the *Guardian* of January 19, 1994 a letter written by one, B Chapman-Boyd. It is very instructive. He says:

"..in any facet of life now in Trinidad and Tobago, do not depend on the 'authorities' to help us, (the Government in power) for they are very insensitive, ineffective, ineffectual, and impotent as they have been and ever will be.

The problem of noise pollution has been with us for over 20 years with the advent of the enormous and senseless boom boxes imported at great cost into the country."

Let us put this in context. He is right. Chapman-Boyd, I understand, is a well-known medical doctor, and presumably a supporter of the PNM as well. While he says all this and while he lays the blame correctly at the door of the Government he goes on to say:

"More recently, we see an insane opposition choosing not to support a clearly urgent measure to control noise in maxi-taxis."

We are supporting a measure to control noise, and I will show you how. We want a reasonable measure to control noise. Here is a man who is saying that the authorities are ineffective and impotent in one breath, and in the other breath he is saying the Opposition is insane. He does not rail against asking the Government to control the importation of the enormous and senseless "boom boxes" into the country at great cost. That is not a problem for him. What he terms the Opposition insanity appears to be a problem for him.

When you put the problem of the maxi-taxi and the loud noise emanating from within alongside the loudness of noise in the society from these boom boxes, you would understand what we mean by a one-dimensional Government. This thing has reached proportions which bring into play the integrity of the Opposition, ethnic factors et cetera, to see how far the Government will go to prompt their supporters to write.

Listen to what Mc Donald James of Couva writes. This is what I am trying to assert; that a level of hysteria has been created in this country against the Opposition, so that this measure cannot be looked at and considered in any reasonable and rational way. This article appeared in the *Guardian* of January 18, 1994.

**Mr. B. Panday:** Whose editors are drug pushers.

**Mr. T. Sudama:** This writer wrote:

"Today another beat is likewise affecting the nation's youth with even more disturbing consequences."

I repeat: "Today another beat is likewise affecting the nation's youth with even more disturbing consequences." He continues:

"In this case, more African youths are the "victims" as they, more than any other single group, use this mode of transport and listen to Dub music. I doubt

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Mr. Panday whose party colleagues have already counted their 52 per cent of the population (Indian votes) as a sure ticket to office in 1996, is displaying an attitude that sends signals that it is all right to leave the Africans to their own destructive devices be it Dub or otherwise."

You understand the insidiousness of the problem that we face in this country. Any issue, the racial dimension and element of it, is arbitrarily manufactured in order for the Government and its supporters to push a certain line. It is as if Indian children travel by limousine to school. It is, only African children who travel by the maxi-taxi and, therefore, the Opposition is not sensitive to the plight of these children.

I thought I would raise that issue to indicate the level to which this debate has descended as a result of the promptings of the Government.

The question is: How do we control the noise? By a reasonable mechanism of regulation, or by the draconian measures of complete prohibition of all sound systems in maxi-taxis. The problem, as we see it, lies with the instruments and the gadgets which amplify the sounds from a radio. We have said that is the only electrical equipment we would like to see in a maxi-taxi, and the problem, therefore, is reduced to one of amplification. This is where we need to focus our attention. We would endorse the strict regulation of systems of amplification and to restrict the decibel level to what is acceptable by health standards.

We insist that the tolerable level of music in taxis can be regulated. We can include in the Bill certain regulations, or amended regulations, that no more than 30 watts of total output be permitted; no more than two speakers; there ought to be no amplifier, no equalizer and, of course, if the law is contravened offenders can be suitably dealt with. The penalty to be imposed in the Bill should be increased. We have made our position clear that we should have a suitable penalty for people who insist on infringing the law.

The Government's argument is that it cannot control it; it cannot monitor it; it would be a nightmare to monitor it. We are saying that when the maxi-taxi goes for inspection, that is the first monitoring that is conducted. The licensing authorities must ensure that it has a radio which can only produce noise at a certain decibel level and no more. If the Government is telling me that it cannot be monitored, how would it monitor a total ban on maxi-taxis with all kinds of electrical equipment?.

The Government must have a system of monitoring to ensure that no noise emanates at all. We are saying that where it is seen that maxi-taxi operators are

violating the noise level, they should be hauled into a licensing office and a determination made, not whether they were playing music on the radio at a level above a certain decibel, but whether the instruments they have in their vehicles have a capacity for a decibel level in excess of what is prescribed

**2.30 p.m.**

That is the monitoring that we are proposing. If the Government says that it is unable to monitor even that limited degree of regulation that we are proposing, I am saying let it get out of office. This is the Government of the unable. It is unable to monitor noise; unable to stimulate growth in the economy; unable to deal with our problems in the educational system. Do not talk about water! It is totally unable with water. If this Government is unable it should go back to the country and say that it is unable, it cannot function, it is useless as a Government and ask for another mandate. That is a simple solution to the whole problem of inability.

**Mr. Humphrey:** The Prime Minister promised that. Early election.

**Mr. T. Sudama:** Later I would propose the two amendments that I am putting before this House. We are proposing this amendment in all humility. We too, want to deal with this problem but to solve it in a way that is reasonable, rather than impose on all maxi-taxis and their operators an obligation to eliminate all forms of noise and music to the discomfort of the large majority of people, when, in fact, it is only a minority that offends.

In any legal system, it is only a minority who offends the rules. If there was a legal system where the majority offended the rules, then it is not a law. Therefore, the question is: How we deal with this minority that offends the rule? Even legislation now, with the impending bill—if you travel from time to time, as I do, with the maxi-taxis—I am a man of the people as you probably know from my record; I travel about freely in this country by public and private transport as well—you will see that the noise level in maxi-taxis has abated.

The best form of control is self-control. The best form of discipline is self-discipline. Those who abuse the system ought to pay for it, and therefore, the Bill should include appropriate sanctions as deterrents to those who are bent on violating the rules and regulations. How this has become such an enormous issue with so much written matter and taken up so much time, I really cannot understand.

If we are talking about noise, noise levels and the deleterious effects of these, what are we talking about? Why this hypocrisy? Why this creation of a

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syndrome of demonology. Maxi-taxi drivers are now the demons in this society and everything must be done to exorcize them. That is what this debate has been reduced to.

If the Government is really concerned about noise and noise pollution—and the Minister quoted all sorts of records, let me quote two. I have a paper on noise pollution by Dr. Steve Medford, FRCF, so he has to be a very eminent man in his sphere of expertise. The paper states:

"The machines most responsible for noise pollution are automobiles,..."

Not maxi-taxis with dub music. It is not confined to that.

"...airplanes, trucks, buses, motorcycles, air conditioners, construction machinery."

**Dr. Rowley:** And thunder!

**Mr. T. Sudama:** Yes. Ban thunder too! Why do you not ban thunder? If you are so intent on banning, ban thunder. As he mentioned that, that is unacceptable noise pollution. That just goes to show the hypocrisy of this Government in this whole matter. It perceives that this maxi-taxi problem of loud music is one that has caused public indignation, so in order to court cheap popularity, the Government is honing-in on this issue—that loud music is causing all sorts of problems such as deafening children who use this from of transport.

At the 85 decibel level, there is the beginning of hearing damage if prolonged. Do you know what is in excess of the 85 decibel level? At 90 decibels level, heavy city traffic. Ban heavy city traffic! Ninety-five decibels level, loud motorcycles. Ban loud motor cycles! The noise which emanates from a motorcycle travelling up and down the road could wake the dead. The Government does not want to ban loud motorcycle noise. At 100 decibels level, that is the noise that a lawn-mower makes.

**Miss Nicholson:** Air Caribbean planes.

**Mr. T. Sudama:** I am advised Air Caribbean planes. I have never travelled on any of those.

A jet travelling 500 feet above the surface of the earth carries a decibel sound level of 115; way above the level of the beginning of permanent hearing damage. Do not talk about the loud boom boxes which we hear continuously. Do not talk about when it is carnival time! I live about one kilometre from Skinner Park and the noise goes on for almost the whole night. I hear it at my home and I cannot

sleep, but there is no effort to deal with that. There is absolutely no effort to deal with the larger problem of noise pollution. We have now just focussed our attention, for the sake of cheap popularity, to deal with the minority erring maxi-taxi drivers.

Dr. Medford goes on to state:

"Repeated exposure to noise over a period of many years can result in a gradual, though permanent and incurable loss of hearing acuity. This is the kind of hearing loss DJs without monitor speakers and loud music maxi-taxi drivers wish to acquire. Unfortunately this is the hearing loss, to which workers in noisy industries and panmen are at risk. This hearing loss called Noise Induced Hearing Loss (NIHL) is often accompanied by marked tinnitus."

What am I talking about? Is there legislation to deal with industrial noise? What about the noise emanating from the national festival and from pan? Is that acceptable? But the maxi-taxi noise is unacceptable. When one really deciphers the logic of this Government one would understand the problem we face and the gross superficiality of its arguments, if its objective is telling the country to deal with its noise problem.

I have in my possession a letter which was published in the *Express* dated January 21, 1994 written by concerned Woodbrook residents. This is an open letter addressed to the senior magistrates and superintendents in charge of granting licences to those bands which perform at venues in or close to residential areas. Woodbrook residents are inundated with this noise from fetes.

#### **2.40 p.m.**

Another letter—this comes from the St. Ann's/Cascade Residents' Committee—"Vigilance on Fête Licences"—again complaining about the uncontrollably loud music emanating from the bands, fetes and disc jockeys. Since there is no one in the House to speak on behalf of the concerned Woodbrook and St. Ann's residents, I am taking it as my responsibility to make representation on their behalf with respect to this unacceptably high level of noise that they have been subjected to due to the inability of the Government to deal with this problem of fête, band and disc jockey music. I want to emphasize, not in maxi-taxis.

The solutions that we are proposing are rather simple. When we look at sections 4 and 5 of the Constitution and the rights enshrined in those sections, we ought to proceed very cautiously in trying to take away people's rights. Where it is

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necessary, it ought to be done. We are saying that in this situation a complete ban of all electrical equipment that produces sound in a maxi-taxi is totally unacceptable and unjustifiable in a society with proper respect for the rights and freedoms of the individual.

We are proposing that clause 9 of the Bill be amended. I have circulated this amendment, but I want to make one change. I am proposing that clause 9 be amended as follows:

"Delete section 12(a) and substitute the following:

Notwithstanding any law to the contrary, no driver of a maxi-taxi shall play or allow anyone to play any music on the maxi-taxi while the maxi-taxi is in motion or parked in a public place, unless the playing of the music emanates from a radio."

Initially, I had included tape deck or compact disc player. I am now excluding that from my original amendment and confining the amendment to the inclusion—

**Madam Speaker:** Is the amendment being referred to that which was supplied on January 14?

**Mr. T. Sudama:** It is January 14, Madam Speaker.

I am excluding tape deck or compact disc player from that amendment.

"...which complies with the amplifier and decibel requirements to be prescribed and as from time to time may be prescribed by the Licensing Authority."

**Madam Speaker:** I am asking if that is the amendment.

**Mr. T. Sudama:** I have something here stamped "Clerk of the House: January 14, 1994" which, I presume—

**Madam Speaker:** Yes, but you are referring to clause 9, I see clause 4.

**Mr. T. Sudama:** I am taking clause 9 first.

**Madam Speaker:** Oh, I see. I do not have the other one. Could I have it?

**Mr. T. Sudama:** I am taking clause 9 first because we are arguing about the level of noise.

Although this is implied in this Bill, we want to make it absolutely clear. Immediately after that, we want to insert in clause 12(b):

"The use of televisions and videos is prohibited".



We further want to state that:

"The use of any amplifier, equalizer, speaker or other electrical or electronic equipment for the purpose of transmitting any electrically or electronically transmitted sounds—"

**Madam Speaker:** Were you suggesting that there is an amendment to your amendment to clause 9? Will you send another copy?

**Mr. T. Sudama:** Madam Speaker, all I am doing is deleting five words from this. I am asking Members to take note.

**Madam Speaker:** Proceed then. The words are?

**Mr. T. Sudama:** We are deleting "tape deck", and "compact disc player." Everything else remains.

I am saying that we insert 12A to make it absolutely clear where we are coming from.

"The use of any amplifier, equalizer, speaker or other electrical or electronic equipment for the purpose of playing music or other electrically or electronically transmitted sounds in a maxi-taxi is prohibited, unless it complies with the provisions and requirements of section 12A".

**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. T. Sudama:** Madam Speaker, by virtue of this amendment, we are saying that we are in favour of banning every other form of electrical or electronic equipment, except a radio, but a radio without amplified sound which can carry in its total output not more than 30 watts and no more than two speakers. There ought not to be any amplifier or equalizer in a maxi-taxi. That is what we are proposing, and we feel that is reasonable for all the arguments which were made previously in this debate. We feel that it can be monitored and that, with a proper system of regulation, it can work.

The Leader of the Opposition gives the assurance that if we put this system in place and it does not work, in six months we can come back and we will support a total ban of all forms of electrical and electronic equipment in the maxi-taxi. We have made our position very clear. Would the Government at least try to be

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reasonable and give this a chance to work? This is all we are asking. This is our amendment with respect to clause 9.

**2.50 p.m.**

Before I go on, the *Sunday Guardian*, which is part of the medium of hysteria we have in this country, and to which the Opposition is the *bête noir*, almost on a daily basis attacks the Opposition for whatever position it may take, whether it is on crime or on maxi-taxis.

So that newspaper highlights all the problems that we have in this regard.

"...most reasonable citizens believe to be in the public interest."

"...over the last year, maxi-taxis have been involved in a series of horrendous vehicular accidents involving much loss of life, and the instant problem, that of playing music much too loud with obscene lyrics in the presence of school children...".

They go on to say:

"From the pulpit, from the teachers and parents, individually and in groups, the complaints have been bitter against what is termed the maxi-taxi culture."

The maxi-taxi culture did not start in the maxi-taxis, it started elsewhere! I will read for you later on where maxi-taxi drivers themselves do not want to play the music, but if they do not play it, the school children would not enter their maxi-taxis. Where then is the root of the problem?

"The Opposition, in response, is seen to be consulting with the Government, but appears bent on introducing what seems to be little more than cans of red herrings to block the proposed legislation.

Given the fact that the Prime Minister, the Member for San Fernando East, is dubbed the king of "red herrings," I do not know if we are taking a little herring out of his can. He is the king of "red herrings," according to one newspaper and journalist.

The *Trinidad Guardian* has a certain fixation: "The Opposition...introducing what seems to be little more than a can of "red herrings" to block the proposed legislation". But even the *Trinidad Guardian* in all its obtuseness is admitting:

"In the meantime, the maxi-taxi operators are on fairly good behaviour."

What does that tell you? If the majority were such demons incapable of reform, as the Government is painting them to be, why would they now be on good

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behaviour? The *Sunday Guardian* is admitting, that yes, on the evidence it is possible to control this type of behaviour through threat of legislation without going to the draconian levels that the Government wants to do.

I cannot understand how they are arguing. On one level the *Trinidad Guardian* is arguing for draconian legislation and on the other level it says:

"The human rights provisions in the Constitution are precious articles of faith in our commitment to democracy and equality before the law. They ought not to be tampered with by any government, for once one article is removed all are in danger."

It says one thing, but the *Sunday Guardian* is supporting draconian legislation.

It goes on to say:

"The truth is, no freedom is absolute. Freedom of the media, for example, is no excuse to publish filth or other degrading material."

But of course, freedom of the media also gives them freedom to distort and to pursue their private agendas. That too, is included in the freedom of the media. I think they should have added that as well. No freedom is absolute and the media ought not to have the freedom to distort and to pursue private agendas and to make mas with the truth.

"...the police should be given the tools to do much more than catch speeding motorists and small time law-breakers."

And I ask the *Sunday Guardian*: Who is preventing the police from getting the tools to do much more than catch? Is the Opposition preventing them?

Under the current law we come back to this question of the capacity of this Government to implement legislation. Section 100 of the Motor Vehicles and Road Traffic Act, Chap. 48:50 states:

"Subject to affirmative resolution of Parliament, the President may make Regulations in respect of all or any of the following matters."

They have the power!

"the construction, fittings, dimensions and design of any motor vehicle;"

You could include of course "fittings," and "fittings" could come under radio and so forth, what kind of equipment you install.

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"the character and nature of horns or other instruments capable of giving audible and sufficient warning of motor and other vehicles and regulating their use;"

They have the power. How do they employ this power? Do they put this into effect at all?

"the number, position and kind of lights and reflectors to be carried on motor and other vehicles and the times during which they are to be exhibited;

the inspection of motor and other vehicles and the times, places and manner of such inspection;

the issue of licences to drivers of taxis by the Licensing Authority and the conditions to be observed by the holders of such licences;"

The prevention methods are given here. The impression given is that the police and the Licensing Authority do not have the power. They have the power under this to make regulations. I want to repeat this:

"the prevention of indecent or immoral behaviour in taxis;"

This is already in the long-standing law, but now the Government is coming here in 1994 to say that it does not have the power to deal with this problem of pornography and so forth.

"generally, for the better carrying out of the provisions of this Act and in particular for the safety, control and regulation of traffic and the use of vehicles or any class of vehicles on any road and the conditions under which they may be used."

All these powers are here in the current legislation. Is this Government telling the country that it was unable to implement any of these laws; that it has no regulations to deal with all of this; and ,if it has the regulations, not why they were implemented? If the Government is exposing its impotence and ineffectiveness to the country, then, I say to it in all honesty, withdraw; get out from government and let somebody who has a fresh approach to the problem try to handle it.

The other issue I wanted to raise—I cannot find the quotation I wanted to use—was a survey made of the majority of maxi-taxi drivers who said that they are willing to control noise levels and the type of music that is played, but if they do that and if everybody does not adhere to that standard what would happen is that they would be in an uncompetitive position.

**3.00 p.m.**

This brings me to the question: Where is the problem? The problem has to be in the home. If you say that dub/lewd music ought not to be allowed in the half hour that school children travel in the maxi-taxi, but they hear it at home, or they hear it on the radio, what we are saying is that it is the Government's responsibility to control what comes over the radio. That is Government's responsibility and it cannot deny that responsibility. What we are saying is that if they look at pornography in their homes or they listen to lewd music in their homes, or if our carnival culture so permits lewdness and pornography, then why is the Government trying just to isolate some errant maxi-taxi drivers to put the blame on them for this gross slide and decline in culture and our cultural values? Why? Merely for cheap politics? That is my conclusion.

Every year carnival regulations are issued—and this is the responsibility of the police—one states:

"No person shall sing or recite any lewd or offensive song in carnival."

Does the Government monitor this, or is this just there for show?

"No person shall indulge in behaviour or gestures which are immoral, lewd or offensive."

This is in the carnival regulations! The Government wants to penalize the 4,500 maxi-taxi drivers for the few who are engaging in this kind of behaviour, but at carnival time, Madam Speaker, you and I know, any amount of lewd behaviour, any amount of offensive singing—as the Member for Chaguanas is going to attest—indulging in behaviour or gestures which are immoral, lewd or offensive. All this is tolerated and I direct this to my born again Christian friend, the Member for San Fernando East, who, as the head of the Government of this country, is the chief custodian of our moral and cultural values.

**Mr. Panday:** God help us!

**Miss Nicholson:** God is his Shepherd.

**Mr. T. Sudama:** I hope that he walks in the shadow of his Shepherd and that he is guided accordingly. The Member sits there and presides over this decline, this degeneration, of all levels of behaviour in the society and then comes here with this Maxi-Taxi Bill and says, "Ah ha, I know where the problem is; you see the one or two maxi-taxi drivers who are playing loud music, that is the problem in the society." One-dimensional, that is the Government's perspective.

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I thought I would refer to that fact. I thought I would put the noise pollution into perspective; the effect of noise on hearing, and how just a minority group is being identified for the focus of legislation. As I said, we need to have control, and that is a function of Government, but in putting down controls we ought to look at the wider aspects of the problem and we ought not to go in dictatorial and draconian fashion to do things which can be done otherwise; we ought not to go to the limit in passing legislation which will then trigger off other legislation; then we shall go helter-skelter merely eliminating and banning whatever we cannot control.

Not only should the regulations be drafted, which will ensure that only a radio is allowed and the fittings can only play above a certain decibel level; and if that is violated that [*Interruption*—I mean below a certain decibel level—the fitting fixed, no equalizer, no amplifier, and the fittings attending the radio emanating sound only below a certain decibel level, which could be monitored at the time of inspection, and of course, monitored during the course of the year.

If people are wont to violate that prescribed regulation, we on this side are suggesting that in addition to the \$5,000 fine proposed in the Bill, the equipment which violates the regulations should be confiscated. If you show the errant maxi-taxi drivers that you are serious, that is going to have a deterrent effect on the majority. So that you do not penalize the good behaviour of the majority for the infractions of the minority.

There is this other question of insurance, where I have also proposed an amendment. We have had all kinds of assurances from the other side; we have even had assurances from the legal expert, the Member for Diego Martin East, senior counsel—

**Mr. Panday:** Senior confusion maker.

**Mr. T. Sudama:** —who assures this House that there is no problem; it is just that the Opposition does not know the law. He has expounded the so-called law to this House. Regardless of what the issues are, the problem has arisen with the creation of two categories of persons who can operate maxi-taxis, that is the owner and a permit holder. In the past it was the owner/operator, only one. Now if you have a permit you can also operate a maxi-taxi, even if you do not own it. That is fine; we want to increase the number of people—and we have no problem with that—who can avail themselves of employment, but it creates a problem.

The problem it creates is the confusion that will arise when accidents occur with the person who has a permit to drive a maxi-taxi but is not the owner. What

is the liability of that person, or the owner of the maxi-taxi to the injured parties? That is a very serious issue. It did not arise before, because when somebody other than the owner drove a maxi-taxi, he was deemed to be a servant or agent of the owner. Now, there is a statutory provision where you may not own a maxi-taxi, but you may have a permit to drive one.

The Government has proposed its view; we have a different view on that matter. What we wish to do is to put the question of liability beyond doubt, and this is what this amendment proposes to do. We are saying here that clause 4 should be amended by inserting "(1)" after "4" in the existing law. So 4 becomes 4(1), and then we add section 4 (2) which reads:

"Notwithstanding any law to the contrary that may make such an operator a bailee or independent contractor of the operator, the operator is deemed for all purposes, including that of the Motor Vehicles Insurance (Third Party Risks) Act, Chap. 48:51 to be the servant and/or agent of the owner."

That is, where somebody is operating who is not the owner of the maxi-taxi. We feel that that is necessary in order to protect injured people. We have a duty to the travelling members of the public to ensure that whatever law we pass here has no deficiency through which insurance companies could escape their responsibilities.

### **3.10 p.m.**

Only today I was reading about a further harangue by the Member for Diego Martin East about how we need to have this legislation about banning all electronic equipment and I quote what Asst. Commissioner Norton Regis had to say—and I hope they take note. This appears in the *Express* of today's date:

"Regis said there was no allowance in the present laws to deal with touts."

So I do not know if they will bring a law to deal with touts later.

"The lives of passengers are at risk when maxi-taxis overload their vehicles. He said in one unfortunate case a church group from Pointe-a-Pierre going to Maracas in a green-band maxi went over a precipice. Seventeen people were injured, but no money could be collected from the insurance company because the driver was not the registered owner..."

Yes, "no money could be collected from the insurance company because the driver was not the registered owner" but the Government is creating a law where the driver need not be the registered owner, once he is given a permit to operate

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a maxi-taxi. Therefore, injured passengers could find themselves in a similar position where an accident occurs and the driver is not the registered owner.

**Mr. Casimire:** Flawed logic.

**Mr. T. Sudama:** There are all sorts of claims the insurance company could make in such a situation, go to court, and 10 or 15 years could be spent—the way the system of justice operates in this country—and at that late stage even if a judgment is given on behalf of the injured, it would not be satisfactory. It would not compensate for the time that these people were without remedy.

We are saying, let us make the law absolutely clear. Let us put it in the law and make assurance doubly sure. I believe that is a reasonable position to take, as well as the position that we have taken on the radio that we ought not to ban radios for a number of reasons which have been adduced on this side.

I think that what we are proposing is the very essence of reasonableness; we are the epitome of rationality in this matter in our proposal, and we are seeking, more than anyone else, to promote what is in the larger public interest and to put on the statute book laws which are in keeping with the ethos and traditions of our democratic society. We will do our duty, regardless of the consequences, without fear or favour, in what we believe to be right.

It may be that given the amount of hysteria which has been created in this society for banning and regarding all maxi-taxi drivers as a class of demons—invoking demonology to deal with this problem—and even if the greater public is in favour of a total ban, our duty here—the oath that we took, as well as other Members—is to carry out our duty without fear or favour. Because we have a duty to lead, as we have a duty to represent sentiments of our constituents in the country at large.

If that duty tells us that this law is flawed in its concept and, in conscience we cannot support this Bill as it is, it is unduly punitive, dictatorial and draconian, then it is our duty to go out there and enlighten the public as to the nature of our stand, so that they would understand what we are proposing. Then we would have done our duty.

Today I stand to make these propositions to the Government and to say that, in principle, we support any measure to deal with this problem, but the Government ought to deal with it in a balanced and reasonable manner. It ought not to go to excess in dealing with a problem which can be handled in the manner we are proposing.



I merely wish to commend these very constructive, eminently rational and reasonable amendments to the other side and if it accepts these amendments, we would be fully supportive of this measure before the House.

Thank you very much.

**The Minister of Agriculture, Land and Marine Resources (Dr. The Hon. Keith Rowley):** Madam Speaker, I join this excessively protracted debate to make a short intervention on a few of the points raised so far.

Unlike my friends on the other side, the Member for Couva South and the Member for Oropouche, I will not be long since I do not have their kind of information. In fact, I have no information that the editor of the *Guardian* is a drug dealer. That could be the subject of a long debate, but since I do not have that kind of information, I will be very short.

**Mr. B. Panday:** We are willing to debate it.

**Dr. The Hon. K. Rowley:** Well you know—but I do not know that; I cannot say that, so it would not form part of my contribution. We try to follow the debate, but we have a little difficulty as we solicit support from the other side. We try to follow their lines of argument to see whether we can accept some of the positions, or be guided by some of their observations, because we on this side, as said by the Member for Oropouche, believe that the Member wants to be reasonable. We, too, are very reasonable and would not take an extreme position for the sake of just doing so. However, circumstances require a certain kind of understanding of what one is dealing with and one comes up with a certain kind of measure to get what one believes to be a desired effect.

**3.20 p.m.**

What we are talking about in this debate is the desired effect, and I do not think that that is in dispute. The country—not just Members of Parliament—wants a certain effect. My Friend, the Member for Oropouche, talks about hysteria in the population over this matter, but I would not call it hysteria. I would call it confirmation of a desire for a particular effect. Where we have differences with their position is a question of degree. I will come to that a little later.

A few of the observations made this afternoon had me a little worried, because the Opposition gives and takes, comes and goes, left and right; one cannot decide exactly how to treat with their presentation because they do not really defend a position for too long.

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If I come to the Parliament and make the statement that my Prime Minister, the Prime Minister of Trinidad and Tobago, is the chief custodian of moral and cultural values in this country, I am sure that the first person who will take serious umbrage to that statement would be my Friend, the Member for Oropouche. Yet, at a certain time in his presentation he introduced that position into his argument, that the Prime Minister of Trinidad and Tobago is the chief custodian of moral and cultural values. I wonder if this country is Iran, a theocracy.

**Miss Nicholson:** Satirical statement.

**Mr. Sudama:** It had nothing to do with morals.

**Dr. The Hon. K. Rowley:** No. It is not a question of having to do. We are talking about chief custodian, a very specific position in the hierarchy.

**Mr. B. Panday:** Okay. Okay. He is not the chief!

**Mr. Humphrey:** Lenny Saith is the chief custodian!

**Dr. The Hon. K. Rowley:** I am simply using that to demonstrate how at one point my colleagues would accept a certain thing, and at another point would not accept the same thing. For if I had said that, I am sure that my good Friend, the Member for Couva North, would have howled very loudly and objected—

**Mr. B. Panday:** I certainly would object. I would say Lenny Saith.

**Dr. The Hon. K. Rowley:** Madam Speaker, I would accept the Prime Minister and Dr. Lenny Saith as the chief custodians of moral and cultural values. What I would not accept is the Members for Couva South, Couva North and Oropouche or any similar element as the custodian of such values.

**Mr. Maharaj:** I could understand your view.

**Mr. Sudama:** We understand your problem.

**Dr. The Hon. K. Rowley:** The Member for Oropouche sought to make a comment on the contribution of my colleague, the Member for Diego Martin East, when he presented the technical information as to the effect of loud noise—not just music—on the hearing system. I think my colleague, the Member for Diego Martin East, in presenting that information, did so in the context of loud noise in a confined area on a sustained basis. That is the problem we have with the maxi-taxis. One is in a vehicle, confined for a while, and the music is played on a sustained basis. I fail to see how that—

**Mr. Sudama:** Damage the ears less!

**Dr. The Hon. K. Rowley:** —could be put in the same context as a motorcycle that is passing or an aeroplane that is passing, or, as I said, a clap of thunder. My Friend the Member for Oropouche said that since we were going to ban music in maxi-taxis, ban thunder and traffic and so forth. I will tell you, too, a lot of the information—*[Interruption]*—because he could not be serious. That is why I am saying I do not know if it is because one thinks one has to use the full 75 minutes or how much, that one builds up this kind of argument.

**Mr. Sudama:** What is the problem? Is the problem noise?

**Dr. The Hon. K. Rowley:** Madam Speaker, in the other House I think it was under the previous administration, the speaking time for Members of the Senate was reduced. I think that there is a case to be made for the speaking time of Members to be reduced in the lower House.

**Mr. Sudama:** I think there is a case for you not to speak at all. You have nothing to say!

**Miss Bhaggan:** Ban speaking now!

**Dr. The Hon. K. Rowley:** What that will do, Madam Speaker—not ban, reduce.

**Mr. Sudama:** Ban thunder.

**Dr. The Hon. K. Rowley:** All right. All right. Have no fear. Have no fear.

**Madam Speaker:** Order! Order!

**Dr. The Hon. K. Rowley:** I am not advocating the banning of speaking. I am saying that I am in agreement with the previous administration's move to reduce the speaking time per person in the other place, and I think it should have also applied to this House, because what it will do is confine Members to saying what useful things they have to say in the shortest time and we will get more things done. It will also prevent a lot of extraneous matters from coming into a debate and confusing the issue—

**Miss Bhaggan:** What is going on here? Are you the Speaker of the House?

**Mr. Sudama:** That is for the Speaker to determine!

**Dr. The Hon. K. Rowley:** Madam Speaker, I am just making a suggestion.

**Mr. Sudama:** Well, make it in another place!

**Hon. Dr. K. Rowley:** And, in fact, if one gets so upset in arguing for precision, I may very well move such a motion at some time in the future. I know

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that will upset my Friends on the other side who seem to think that volume is quality. My Friends think that quantity—

**Mr. B. Panday:** No, no. We will add on an inquiry. Bring a motion, we will add on an inquiry.

**Dr. The Hon. K. Rowley:** Well, if you want an inquiry, bring a Motion. *[Interruption]* No. Bring a motion!

**Mr. B. Panday:** You cannot even bring one!

**Hon. Dr. K. Rowley:** Well, all right. Do not talk during my contribution.

In the same vein, many of the contributions from the other side dealt only with one of the many measures in the Bill. So that this Bill is coming across as the Bill only to ban maxi-taxi music. There is so much more in the Bill that seems to be falling by the wayside. In focussing on the degree of restriction, Members on the other side have made a lot of play about draconian behaviour by the Government, dictatorial tendencies and so forth.

**Miss Bhaggan:** Yes. You just displayed one.!

**Dr. The Hon. K. Rowley:** Sounds good, yes. There is a lot of merit in some of the arguments in going certain ways. Restriction of freedom is always something to be taken very seriously and to be accepted in small and careful doses. Then, at another point in the same contributions, Members will tell us that control of what is played on the system is what the Government should be about and control of what comes over the radio.

**Mr. B. Panday:** No, no. It is not! And control of laws that you are not implementing.

**Dr. The Hon. K. Rowley:** Madam Speaker, if one listened to the contribution of the Member for Oropouche recently, one would have heard him speaking about Government's control of what comes over the radio in the context of censorship. That is what he is advocating—a certain amount of censorship. Yes, there is in the current system some element of censorship, but the whole thing is a matter of degree.

**Mr. Sudama:** I have no problem with that.

**Dr. The Hon. K. Rowley:** Now, what assignment are we giving the Government? I hear about control of importation of boom boxes, and to the best of my knowledge, a lot of the boom boxes around are constructed right here in Trinidad and Tobago.

**Mr. Sudama:** With what? The equipment is constructed here?

**Mr. B. Panday:** The box!

**Dr. The Hon. K. Rowley:** Madam Speaker, it is clear that my Friend, the Member for Oropouche, has no idea about stereo and audio systems, because if one talks about controlling importation, it would largely apply to those who are passing in transit. Many of the so-called boom boxes are constructed here using small elements put together to create the monsters as they call them.

In one breath they are chastising the Government for wanting more and more control; and in the next breath they are asking the Government to control more and more.

**Mr. Sudama:** No! No!

**Mr. B. Panday:** No! No!

**Dr. The Hon. K. Rowley:** That is what they are doing!

**Mr. Sudama:** Okay. If you do not want control over the radio, why do you want control over the maxi-taxis?

**Dr. The Hon. K. Rowley:** If the answer is no, what you are asking, to satisfy your kind of position, is that the Government would issue a list of tunes to be played, the Government would issue a list of topics to be sung on and the Government would issue a decree as to the decibel level at which they should be played. That is what you are saying. You are giving the Government that role.

**Mr. Sudama:** If that is the case, why do you want to ban it in maxi-taxis? Do not ban it at all!

**3.30 p.m.**

**Dr. The Hon. K. Rowley:** You are saying that the Government should control what is played on the radio in that way. It is all a question of degree. Even as the Government has responsibility for restrictions and so forth, the whole approach to all these things is a question of degree. When the other side talks about the Government wanting to ban music and they put it across in the worst possible light, maybe they are forgetting that the amendment that has been put forward says they want to ban tape decks; they want to ban amplifiers; they want to ban pre-amps; they want to ban equalizers; they want to ban speakers. Therefore, it is simply a matter of degree of banning.

**Mr. Humphrey:** We want to ban noise pollution.

**Dr. The Hon. K. Rowley:** As I said, we are talking about the objective. What is the objective? The Member for Oropouche, in his amendment, put a limit of 30 watts on a system. That will not achieve the desired objective. The desired objective, if you agree, is to reduce significantly to a tolerable level, the music that should be played, if you take their position, but to say 30 watts is to demonstrate a lack of understanding.

I have a stereo system at my home and it is 30 watts per channel and I have four speaker boxes, and I can tell you, if that 30 watts per channel is used, it could make enough noise to end up with this problem not being touched at all, because 30 watts per channel is a lot of wattage. In fact, the average radio is five to 10 watts. So when the Member puts the amendment saying that he will accept 30 watts, it tells me, in keeping with other things that he said, that he has not got a clue of the whole system of audio propagation.

Let us focus on what we are trying to achieve. Let us call the wattage "x", whatever "x" might be; but then, a system that puts out 30 watts and one that puts out 10 or five watts might look the same to the naked eye. It usually requires going inside the system to determine the quality of the capacitors in there to say what the output will be. So we have a difficulty right there. So if we accept some kind of restriction like that, we also have to understand that we are putting in place some kind of measurement which cannot be easily determined. This is because, once the law says you want "x" wattage on the radio, somebody is going to have to go into that radio and determine its components to verify that it has not violated the law.

I raise this only to highlight one of the difficulties that would be involved in putting such a system in place. It is this kind of problem that we are going to face if we go that route, and it is this kind of consideration, not any consideration to create dictatorship and to arrogate power unto oneself and to determine that all maxi-taxi drivers are devils and so on. All of that is just unnecessary talk. It is the practical difficulties associated with determining the output levels of the electronic systems that cause us to want to think that if we are going to achieve that desired objective, we need to remove the systems.

The Opposition agrees. My Friend from Oropouche quoted from the law just now. He said, we have on the existing statutes, laws which were put there before small portable solid state televisions were available, and those laws said that if you have lewd expressions through your systems on the buses or maxi-taxis, you will be in contravention of these laws. That is on the law.

It, however, does not change the position of my Friends on the other side from saying, even though in the present law there is provision for prosecuting people who show blue movies in maxi-taxis, that they have agreed that because of the practical constraints, the thing to do is not to put more police to look for televisions and the tapes of blue movies; they are saying in their amendments, spelling it out, that television and video must be banned. The reason is that they, too, have recognized that if we really want to deal with that problem, to eradicate it in its totality, the equipment that facilitates the exhibition of such material has to be removed. They have accepted that.

**Hon. Member:** No, that is not our argument.

**Dr. The Hon. K. Rowley:** Madam Speaker, they are saying that my analysis is wrong. I would simply like to ask: What then is the rationale behind the amendment that says, they will support the banning of television and video?

**Hon. Member:** Because it cannot be controlled.

**Dr. The Hon. K. Rowley:** Madam Speaker, I am talking to you; they are not understanding me, deliberately. Because one is a radio and one is a television, he is saying to remove the equipment that gives the visual offence; and there is no accusation against him for that. That is not putting the country on the road to dictatorship; but removing the other piece of equipment; that gives audible offence, all of a sudden, that is creating all kinds of problems. I am saying, you cannot have it both ways. It is either we remove the equipment that causes the offence, or leave the equipment and go for another measure.

So when one looks at all the presentations objectively, the position as advanced by the other side as against the Government's position, one would see that we are separated by that single point of degree and a splitting of hairs between the audio and the video. Therefore, it is then not logical for the Opposition with respect to all the accusations thrown at the Government about the Government's position with respect to the whole concept of a ban cannot hold water, because they, too, are agreeing that under certain circumstances, the way to deal with the problem might be to implement a ban.

I am sure if the story was that on maxi-taxis there were television sets showing Sesame Street, religious programmes and cricket, and so on, there would have been absolutely no case being advanced for a banning of television and video on maxi-taxis. It is because the argument is that these pieces of equipment are being used by some persons to expose the public, particularly young children, to inappropriate material. That is the argument.

**Mr. Robinson:** Madam Speaker, is the hon. Minister aware that he is dealing with a fundamental human right, and what we are seeking to do is to limit that right, whereas they are seeking to abolish it altogether? Does it mean anything to him that what he is dealing with is a fundamental human right entrenched in the Constitution?

**Dr. The Hon. K. Rowley:** Madam Speaker, I am not aware that the Constitution gives a certain level of right for radio and a lower level for television. I do not understand the point that the Member for Tobago East is making. Suppose some maxi-taxi driver says, "I prefer to have a television and have no radio", what is going to be our position? It is a right to watch television; it is a right to listen to the radio; we are banning a part of it. So I do not see that point at all. I am saying that it is a question of what degree of control we are going to accept for the desired objective.

This debate ought not to have gone on for so long, because I think we agree that a significant degree of control of what is going on out there is required. I have not heard a single Member say that there is no case to be made against some of the undesirable actions out there. In so doing, it is not that you are labelling or tarring everybody with a brush, we have agreed that there is a problem out there and it needs to be addressed.

### **3.40 p.m.**

In fact, the Member for Oropouche takes pleasure in blaming the Government for everything—I cannot blame him for that—some of his positions do not even make sense. For example, he says that this Government should be blamed for the problem because it granted too many licences. I am sure if one checks how many licences were granted in the last two years, one would find that it is a small proportion of all licenses granted.

Clearly, this Government did not grant licences beyond the optimal level; unless, of course, he is saying that the optimal level of maxi-taxis was arrived at in 1991 and subsequent to that this Government added more maxi-taxis. That is a nonsensical argument. Absolute nonsense!

I should be very surprised if there are people out there who are prepared to go and spend \$250,000 for a maxi-taxi knowing that there are no passengers to be transported. *[Interruption]* It is not a question of its being done willy-nilly, but to say that it is the Government causing the problem by having too many maxi-taxis, I cannot understand that at all. In one breath the Member for Oropouche said that



children in his constituency cannot get to school, but it may very well be that there are not enough units in his constituency.

The public transport system in this country is a small part of the overall transportation required. So, if the Member is saying that there are too many maxi-taxis, is he advocating that some should be taken off the roads? Even worse than that, I always have difficulty with the consistency, and I cannot over emphasize this point. My Friend, the Member for Oropouche, read a letter from a person whom he did not identify—he identified one but not the other—making the point that the person had written in the newspaper that if the Government did not take action against undesirable music in the maxi-taxis, African children would be exposed to the deleterious effects of these things. He was horrified that any person could have written that; and he blamed the Government for creating that kind of point of view in seeking to politicize this whole maxi-taxi problem.

**Mr. Sudama:** I said it was a PNM supporter.

**Dr. The Hon. K. Rowley:** Madam Speaker, if that was a PNM supporter then I say the biggest PNM supporter is the Member for Couva North. It was right here in this Parliament that the Member for Couva North put *Hansard* that the problem we are seeking to address is an East/West corridor problem and it does not exist with the green, brown, black or blue band maxis. It was he who introduced that into the debate. He sought to give the impression that the problem with loud and lewd music is something that is confined to the East/West Corridor. Those were his words, "the East/West Corridor."

He even asked whether the Government is aware that there are green, brown and blue band maxi-taxis. So, if somebody gets up, as was read, and any interpretation along that line, as the writer might have written in the newspaper, as being objected to by my Friend, the Member for Oropouche, it is the same context in which the Member for Couva North made his contribution. In one breath it is okay for the Member for Couva North to identify the national problem of this nature as an East/West Corridor one, but nobody else should do that.

I am saying this is why I have difficulty following the arguments of the Members of the Opposition, because they are usually very convoluted and sometimes they come right back to opposing the very thing they support, or, supporting the very thing they oppose. That is the problem.

The Member for Oropouche made a point that in dealing with the maxi-taxi problem, the Government is dealing with the noise pollution problem on a piecemeal basis, and doing nothing about other matters. Regardless of the form in

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which legislation comes to this House to deal with any issue, one would always hear that, because it is an Opposition cop-out. It gives the impression that there is something deficient in what the Government is doing.

We have a problem with the public transportation system where some maxi-taxi drivers are using their vehicles to expose the public to undesirable material, both in quality and volume

**Mr. B. Panday:** That is the operative word, "some."

**Dr. The Hon. K. Rowley:** I said "some," yes. So, we come to amend the law that governs those units so as to take cognizance of the fact that the problem that is largely confined to these units is going to be addressed, but the Opposition says the Government is operating in a piecemeal way. As far as I know, there is no problem of a similar nature with the conventional taxis, the PTSC buses or private cars. This is where the problem is, therefore, I see it as being reasonable and logical to use the legislation that governs these vehicles to deal with this particular problem.

It does not say that this is the end of the problem with respect to noise pollution in this country. I agree with the Member for Oropouche when he said that the loud noise in residential areas is a matter that ought to be addressed. I agree with that, and at some appropriate time—I am not a lawyer, I do not know what is on the books; it may be that on the books we have laws which can give us abatement—if amendments are required to make changes, I would be the first to support that; because, in this country we do have a problem of excessive noise in residential areas.

**Mr. B. Panday:** There is no problem in Tobago with respect to the maxi-taxis, but you are still moving to ban them.

**Dr. The Hon. K. Rowley:** Madam Speaker, I am not going to be distracted by that. I am saying that is a point which was raised and ought not to fall on deaf ears. The whole question of noise pollution, especially insofar as it relates to excessive and sustained noise in residential areas, needs to be addressed.

The Member also raised the point of screening people who are going to operate maxi-taxis. There is much merit in that. There was a time when one had to get a taxi badge to operate a five-seater taxi, and there was a serious amount of control over who could operate a taxi. Those regulations applied in a era when human decency was at a much higher level in our community than it is today.

Some of the things that are happening now were not happening then. I think that there is a good case to be made for us to re-examine and re-introduce greater

scrutiny and restriction on persons who take the safety and lives of the travelling public into their hands. Again, that is something I am sure would attract the attention of the Government, being responsible for good public order and so forth. Of course, I would add driving competence to that. Again, what is the objective?

The objective is to have efficient, safe and affordable transport. That is the objective, and anything that runs counter to that objective should be brought in line.

**3.50 p.m.**

We talked about regulations, but we have reached a point in this country where we have to take a very serious look at our tolerance, or lack of it, for the enforcement of the rules that we have agreed to be governed by. It could be easily said that I am speaking as a Member of the Government and, therefore, I should not be saying this. Suffice it to say, as a member of the national community, there is hardly a day that I am not forced to observe that we need to enforce the regulations of whatever kind that we have agreed to be governed by.

Whether it is driving on the left side of the road or whatever, the fact is we put regulations in place with objectives that are agreed upon, but when we try to enforce these regulations, the national psyche is such that the next thing you hear is "police harassment." I would not be surprised at all if we put a restriction on the radio wattage, which requires detailed inspection, the next issue we would hear, as we seek to enforce the law, would be harassment and other charges.

The bottom line is that the Government has accepted that there is need for abatement of the menace that is loosely called the "max-taxi culture." Whatever reduction comes from our efforts would be progress. It is the Government's point of view that we should see all of it out, so that no one would be exposed to what we have all agreed is undesirable; and it falls to the Parliament to get that done.

Madam Speaker, we shall get done in this Parliament what the Parliament agrees to get done, and the objectives are clear to us all.

Thank you, Madam Speaker.

**Mr. Ramesh Lawrence Maharaj** (*Couva South*): Madam Speaker, this Bill raises very fundamental matters. One of the things which have come across quite clearly in the debate is that the Government is trying to hoodwink the population that it is attempting to do something to protect the public's interest.

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This Bill attempts to get legislative authority to prevent persons who operate maxi-taxis from using a radio and other means of communication. It is quite clear from the progress of this debate that the Opposition supports some measure of regulation. It has now boiled down to the fact that the issue which arises is whether the Opposition should support a ban on the use of radios in maxi-taxis.

The Government is saying that radios will be permitted to be used in vehicles owned by the Public Transport Service Corporation but maxi-taxis will not be permitted to use radios. The Government is saying that radios, which can be used in private cars and ordinary taxis, are lawful but maxi-taxis cannot use them; it is unlawful. The Government is in effect saying that maxi-taxi operators must be put in a special category and they and their passengers must not have the facility of using a radio.

The Government is attempting to pass this legislation and to get our support, but without having necessary pre-legislative processes in a matter like this which is inconsistent with the fundamental rights enshrined in the Constitution. The history of this Bill, therefore, raises the issue as to whether the Government has adopted the proper constitutional and moral procedure in trying to pass it. Secondly, whether the substantive provisions of the Bill are rational, whether they can be enforced. As I would show you, clause 9 is nonsensical. Even if it is passed it cannot be enforced. It is ridiculous, but that is another matter.

Another matter which arises is that if the Bill is passed in its present form, it would facilitate insurance companies to use special terms in their policies which the courts of this country have frowned upon and have called for amendment to the relevant legislation. These companies would avoid liabilities and put the interest of the travelling public at great risk where they may not get compensation for injuries nor their beneficiaries compensation for fatal accidents caused by the negligence of drivers. I will go into all these matters and take them one after the other.

I do not understand what is the desired effect of this Bill. If it is to protect the travelling public, to protect the passengers in vehicles, and to prevent them from meeting their death, I should have thought that a very important consideration would be to ensure that if those passengers are injured they would receive compensation, and in the case of death, their dependants would get compensation to provide an education for their families and to provide sustenance for them, but this is not the case.

The Government is reacting and it wants to give the population the impression that it is doing something about the problems in the country.

The Government expects us on this side to react to emotion, to have many letters written to the press, to have editorials—and we would come and say that we are going to support this Bill. Measures like these determine whether Parliamentarians are worth their salt or whether they would be prepared to act according to emotion. *[Interruption]* I am sorry, I thought the hon. Prime Minister wanted to ask me a question. I wish to assure him I have no certified copies this afternoon.

**4.00 p.m.**

We must remember that in this Bill we are dealing with law and principle. It is sometimes forgotten that when this country had to get Independence, the people of Trinidad and Tobago decided that we could not put all power into the hands of the Government; it must be a limited government; there must be checks and balances to ensure that government does not pass legislation which may be inconsistent with the rights of the people, or use majorities or other procedures which may not protect the public's interest.

What did the Constitution provide among other things? Provided both in the Independence Constitution and the Republican Constitution, now mentioned in section 13 of the Republican Constitution, is that restriction that Parliament could not pass an Act inconsistent with sections 4 and 5 of the Constitution unless the Act expressly declared it shall have effect, despite the inconsistency, and of course if it was supported by votes of not less than three-fifths of the persons in both Houses.

If one understands the concept of the Constitution and the reason for that, it was recognized by the people of Trinidad and Tobago; by the people who formulated the Constitution; the people who agreed upon the Constitution, that there would be times when the Government would want to pass measures which may be inconsistent with sections 4 and 5, but that with the requirement of special majorities they would have to think twice; probably have more consultation with the Opposition and consult with the population.

In all the constitutions which were drafted along this model, there were different yardsticks used. For example, in some countries it was said there should be a referendum; in others it was said that it could not be passed unless a certain amount of time elapsed from its introduction; in others, it was said it could not be passed unless there was a special majority. The rationale for this was that the Government could not thereby pass measures without consulting with the population, consulting with the Opposition.

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The important point is that this Government really came to this House without having any consultation. Consultation, as it is understood by governments which are truly committed to people democracy and participatory democracy, is if legislation is brought which would impact upon the rights of individuals, at least, national consultation could be convened where the views of the population would be heard; it should be explained to them and it should be considered.

Consultation is not introducing a piece of legislation and then calling the party together and saying that we are doing this or getting people to write letters to the press. Consultation in constitutional law necessitates and mandates that all the relevant facts must be disclosed to the other side and the population, and people would express their views on all disclosed facts. After views are expressed, you deliberate. Everything may not be agreed upon, but you deliberate; you go through the process so that the population would feel that they had an input into the piece of legislation which is inconsistent with the rights of the individual as enshrined.

We are operating under a limited government principle. It is not only the Executive has a duty to consult, but also the Parliament has a duty to consult under section 13. Therefore, the Parliament has a duty to ensure that the population is consulted on important matters like this. We see this has not been done. On that principle alone, we can say that we are not supporting this measure. We can say that unless the Government decides to refer this matter to a joint select committee where all the groups would come and have a say and then the decision is made, the Government would not be acting in accordance with the Constitution.

**Mr. Sobion:** Quote the section.

**Mr. Valley:** Quote a section.

**Mr. R. L. Maharaj:** I know the Attorney General would not divert me.

The Opposition decided to have consultation. The Opposition had a consultation on January 11, 1994 to which it invited several organizations and individuals at the Seamen and Waterfront Workers' Trade Union Hall. Although people came and expressed strong emotions about measures, at the end of the day, they understood that it would be a dangerous precedent of censorship for a government without consultation, without proper means of seeing whether the measure can work, to go ahead and pass a measure which would involve the non-use of a radio in a motor car.

This Bill is not only inconsistent with the right to the enjoyment of property. I noticed that the hon. Member for Diego Martin West laughed when the hon. Member for Tobago East spoke about the fundamental rights to property. A man who has a maxi-taxi and a man who has equipment in his maxi-taxi—that is property for the purposes of the Constitution. Therefore, he is entitled to use it. If the Government wants to regulate that use and pass law which is inconsistent with the use of that, that is how it has to get approval under section 13.

**Mr. Valley:** Madam Speaker, I think it is understood on this side, that the Member for Diego Martin West was making the point that given the fact that the Opposition have agreed that one can take away the right to television and amplifiers, are they not agreeing already to infringe the right of enjoyment of the individual?

**Mr. R. L. Maharaj:** Madam Speaker, I should have thought that the hon. Member for Diego Martin Central would have understood. The hon. Member for Oropouche has in effect given him the answer. No right is absolute. The Government can regulate, but if it is going to regulate to the extent that it wants to have a total ban on everything, then that is a different consideration. That is what we are talking about. As a matter of fact, if there cannot be regulation, then a motor car owner could have driven down a one-way street because he has his vehicle and he has the right to use it. These can be regulation, but if it is said that a motor vehicle should not be driven at all, that is banning. He is manning; he is banning.

**Mr. Valley:** This is getting very interesting. It seems to me that in this case the regulations suggest a toning down, but if one is saying no amplifier, no video and no television, obviously that is banning amplifier, television and video.

**Mr. R. L. Maharaj:** I always find it very difficult to explain some of these matters even to lawyers, so that I can understand the difficulty of my Friend the hon. Member for Diego Martin Central. Do you want me to "kill" you now?

**Madam Speaker:** Please continue with the debate.

**Mr. R. L. Maharaj:** Why is he getting annoyed? Why does he get emotional? I have not spoken about Dole Chadee's car as yet. What do you want me to do? I have not spoken about Plipdeco and Algico as yet. I would speak about Algico.

**Madam Speaker:** The hon. Member was making his very constructive contribution. Will he please continue?

**Mr. R. L. Maharaj:** I am indebted to you, Madam Speaker.

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Not only the enjoyment of property, but it brings into question the right to the equality of treatment because in this Bill, the Government is attempting to ban radio in a certain kind of vehicle, the maxi-taxi, and it is permitting the use of the same kind of radio in other vehicles plying for hire and being used for public transport service. That is naked discrimination; naked inequality of treatment! What is the rationale for that?

**4.10 p.m.**

**Dr. Rowley:** I am just seeking some clarification because I have some respect for the analysis. When two persons buy a vehicle of the same model, and one is a taxi and one is not a taxi, is there not a restriction that one can hire passengers and one cannot? *[Interruption]* I should like to hear the answer to my question. There are two cars, same type, same model. John owns one; Harry owns the other. John has an "H" car; Harry has a "P" car. Is there not a restriction that one of those cars cannot carry passengers for hire?

**Mr. R. L. Maharaj:** That is true. One is a private car and the other is a hired car. Therefore, the private car is in a different category to the hired car. We are dealing with a situation of hired vehicles being used for public transport. A private vehicle is not used for public transport.

Here we have car taxis which are permitted to use radios, which is not unlawful, and not being fined \$5,000; there are Public Transport Service vehicles which can use radios, tape decks and televisions; but maxi-taxis, the people who have, in effect, performed the duties of the Government in providing a transport system, being treated in an ungrateful way; that is the discriminative way in which the Government wants to deal with them; that is the injustice which they want to give to them. If this Government could have done the hon. Member for Laventille West, Mr. Morris Marshall, the injustice did by putting him so far down, when he should have been there, then what would they not do to maxi-taxi owners! *[Interruption]*

**Madam Speaker:** Order!

**Mr. R. L. Maharaj:** This matter has a little history, and when it has a history like this and Members on the other side have spoken in respect of matters like this, we ask a question.

Madam Speaker, you would remember that in 1992 the Maxi-Taxi Bill came to this House as a result of a court judgment, and the Opposition took a certain stand in respect of that measure. You will recall that one of the positions we took



was that if the Bill was presented without protection to persons who were injured in motor vehicle accidents, we could not support the Bill. Another position we took was that there must be an effective transport policy, but if they did not come with that, we would still support the Bill, but we wanted protection for the persons who were injured.

In that debate, there were certain promises made by the Government that they would have a comprehensive review of the Maxi-Taxi Act and would deal with the matter. May I mention some of those comments. The hon. Attorney General on May 29, 1992 at 2.25 p.m.:

"The national interests ... involve the following matters"

apart from

"ensuring that a certain traffic management policy ...

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."

Have we got that as yet? Is that in the Bill? Is there any announcement of this?

"Ensuring that those members of the travelling public were able to travel with the certainty that they were covered with the necessary insurance in what is a public service vehicle".

What happens in this country with respect to insurance, I will elaborate further. Under the present legislation, the Motor Vehicles (Third Party Risks) Act—  
[Noise]

**Madam Speaker:** Members of the public, I appeal to you, if you wish to stay here while the Member is making his contribution, please be quiet. Under no circumstances will we tolerate any misbehaviour in this House.

**Mr. R. L. Maharaj:** Thank you very much, Madam Speaker. Under the Motor Vehicles Insurance (Third Party Risks) Act, an owner of a vehicle must insure his vehicle to cover the event of injuries or damage to third parties, that is passengers or persons using the roads. By the provisions of the Act, however, it has been possible for insurance companies to avoid insurance policies by putting certain clauses in them. What has happened is that the desired object of the Act has been frustrated. For example, if a maxi-taxi owner drives his vehicle, but the insurance policy says: "To be used only as a motor cab," if he is taking that vehicle to the beach on a certain day with his family and it is involved in an accident, it provides the basis for the insurance company to avoid liability.

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In two matters which I would refer to, which have appeared not only in our courts but also in the Privy Council, this issue has been highlighted and Justice Edoe, as he then was, in a matter, 686 of 1974, had this to say. This is why we are saying, why pass legislation without putting in the appropriate safeguards to ensure that insurance companies would not use this legislation in order to avoid liability?

In that judgment the learned judge said that:

"It is ironic that legislation enacted primarily to protect persons who suffer injury and loss by accident arising out of the use of a motor vehicle on a public road is of no avail where there is a breach of a policy affording cover for such injury or loss, in effect leaving the policyholder uninsured. While it is true that the third party can sue the policyholder and recover any amount for which the latter is liable, if the policyholder is a man of straw, the third party is left without any relief. In such circumstances, the very purpose for which the Motor Vehicles Insurance (Third Party Risks) Act (Supra) was enacted, is defeated.

Our law has not kept apace with developments in other countries. In the United Kingdom, a Motor Insurance Bureau is established by law to secure compensation for the victim of road accidents in cases where they are deprived of such compensation through the driver of the vehicle being uninsured or untraced. The establishment of some such organizations in this country is necessary if victims of road accidents, like the present one, are left without recourse against the insurers.

Reluctantly, I give judgement in favour of the Defendant Company. The plaintiff's claim is dismissed with costs ..."

In this matter, the insurance company tried to avoid the policy on the basis that the person was not a licensed driver and also having regard to the limitation of use in the policy. Let me just give you, Madam Speaker, this honourable House and the national community an example of what I am talking about. On the one hand the insurance company is satisfying the Act by saying that it is providing insurance for the vehicle, but under the terms of the policy it is limiting the use of the vehicle for which it will be covered. So, it is satisfying the provisions of the Act, but also denying third party injuries.

At page 3 of this judgment, under "Persons or Classes of Persons Entitled to Drive," the following appear:

"(a) The Policy Holder;

- (b) Any other person provided he is in the Policy Holder's employ and is driving on his order or with his permission ...

(Under) "Limitation as to use," (the following) appear:

"Use only as a motor cab."

I do not want to go into any legal submissions here, but if a policy says that it is to be used only as a motor cab, there are serious consequences if whilst that vehicle was being used for private purposes whether the insurance company is liable. As a matter of fact, if one reads this judgment one would see that insurance companies are not liable.

What has happened with our law? We copied it from England, but the English Parliament amended their law since the 1960s to such an extent that no insurance company can raise any point of trying to avoid any liability for anyone who is insured and is involved in a motor accident.

#### **4.20 p.m.**

In order to demonstrate how this injustice has been highlighted, not only in the national community but also in textbooks, in another matter which went to the Privy Council from Trinidad and Tobago which deals with some other aspects, but on which the Privy Council gave a history—I would not call the name of the insurance company—Privy Council Appeal No. 31 of 1992, decided on December 15, 1993, whilst this Bill was pending in this Parliament, the Privy Council's judgment traces the history of the legislation in Trinidad and Tobago, and the history of the development of the legislation in England. I quote to show how a famous writer on insurance law regarded the injustice which operated under the English law before it was reformed and which in effect operates under the Trinidad and Tobago law, because we have the unreformed law.

I quote from page 13 of a judgment delivered by Lord Lowrie. Referring to the 1930 Act of England, he said this Act:

"...was designed to prevent any person using a motor vehicle on the road unless he had provided security, by insurance or otherwise, whereby any liability incurred by him to a third party could be satisfied. This enactment was a considerable step towards the object of the principle which has been described. But it did not go far enough. Save for one section..."

Section 12 of our Insurance Act, to which I will refer:

"...it left untouched the principle that persons can make whatever contract they please. The consequence was that motor insurance policies continued in the

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form in which they had become customary. In this form they complied with the requirements of the Act with one hand, and with the other defeated the manifest object of it. They insured against any liability arising out of the use of insured vehicles on the road, and at the same time provided that liability should not arise out of any use of the vehicle save that specified in the policy. Moreover the policy bristled with conditions, the technical breach of which rendered the policy invalid, ineffective and useless to effect the object at which the Act was aimed."

That was a quotation from *Shawcross on the Law of Motor Insurance, Second Edition, 1949*, quoted by the Privy Council.

Then it referred to the words of Mr. Justice Goddard in a 1933 case, which was before the reformed procedure in England, and which may be referred to for a summary of some of the many loopholes of the English Act, and I mention it here to show that it applies to our law. This Act of 1934 says:

"...was designed for the purpose of stopping those holes. This it was intended to effect by two methods. In the first place, it compelled insurance, to discharge any liability incurred by the assured in respect of fatal or bodily injury covered by the policy as soon as the judgement in respect of it is obtained against him by a third party. In the second place it rendered ineffective in regard to such liability, certain clauses in a motor policy which allowed insurers to issue policies purporting to cover the liability required to be covered by the 1930 Act, whilst in fact not covering that liability if the insured vehicle was being used in any manner prescribed by the policy or if the assured had committed any technical breach of its formal terms."

The leading Caribbean authority on the law of motor insurance, Sir Alfred Crane, in his book *The Law of Compulsory Motor Vehicle Insurance 1975*, at pages 203 and 204, mentions this injustice, and I will read it in a short while. He mentions the need, in effect, to have some redress to it, and also that the object of the Act was being defeated.

If this law is passed as it is, Madam Speaker, let me give you an example of what could happen. If the insurance policy insures the owner—as it would have done under the Motor Vehicles Insurance Act, but there is a limitation of use that only the owner, its servant and/or agent, or limited to, for example, for use as a motor cab only, two questions could arise if that vehicle when driven is involved in an accident. One, the person who is driving the vehicle, is he the servant and/or agent of the owner?

Madam Speaker, you know in the famous Guyanese case of Rambaran and Goacharan that went to the Privy Council, even a son driving a father's car with the father's knowledge, but he went on some other road, it was held that he was on a frolic of his own and was not a servant and/or agent of the father.

We also know that in the authoritative work of *Clerk & Lindsell on Tort*—and I am referring to page 165, dealing with cab-drivers in England it says:

"The relationship between the proprietors and drivers of cabs is at common law clearly not that of master and servant in those cases in which the ordinary practice is followed of the driver paying a fixed daily sum for the use of the cab; it is merely that of bailor and bailee."

Or there is another relationship, that of an independent contractor.

In order to avoid that injustice which we told the other side about and which the hon. Member for Diego Martin East is going all about saying, no, we are talking nonsense, in England in 1843 they passed a statutory law to abolish the common-law rule in respect of the owner of a motor cab and the driver of a motor cab to say that anybody driving the motor cab is deemed in law to be the servant and/or agent of the owner.

The hon. Member for Oropouche is saying that if it is that one is interested in the passengers, the people who get injured; and not interested to put money in the insurance company, and not interested to oppress the people who get injured, put in the law that anybody driving the maxi-taxi would be deemed to be the servant and/or agent of the owner. What is the objection to that? What rational objection can there be to that? The hon. Member for Diego Martin East got up and said that is a nonsensical point, that there can be no authorities that we can quote. I would not answer him with respect to law; I would hope that the Attorney General would put him right.

**Mr. Imbert:** Madam Speaker, on a point of clarification. The point I made was that I would like him to show where in the case of someone who was driving with the permission of the owner and following all the prescriptions of an insurance company, that company was able to avoid liability in such a case?

**Madam Speaker:** Hon. Members, I know we are having an intellectual discussion, but I think it is now time to break. *[Laughter]*

**4.30 p.m.:** *Sitting suspended.*

**5.06 p.m.:** *Sitting resumed.*

**Mr. R. Maharaj:** Madam Speaker, in order to appreciate the difficulties the travelling public face with respect to compensation as a result of accidents in motor vehicles, and what the travelling public can face if this Bill is passed in its present form, it is important for me to give a brief history of what has happened with respect to the Parliament's intervention in trying to protect the rights of third parties when they are injured.

Before the Motor Vehicles Insurance (Third Party Risks) Act was passed a person who was injured in a motor vehicle, or who was injured as a result of the use of a motor vehicle on a public road, would file a case of negligence against the owner of the motor vehicle or against the driver and/or both of them, and if he got a judgment he would try to recover the judgment against the owner and/or the driver.

What happened though—and it was proved—was that most of these people who were owners and/or drivers were men of straw and, therefore, the injured third party or the dependants could not recover the money, therefore, it followed the injured victims suffered great injustice. So Parliament intervened, and the Motor Vehicles Insurance (Third Party Risks) Act, Chap. 48:51 was passed, it copied, I think, the English legislation of 1930.

It attempted to protect third parties against risks arising out of the use of motor vehicles on the road, and it provided a statutory right of recovery by the injured third party who got a judgment against the insurance company of the motor vehicle. As you would know, Madam Speaker, there would have been no privity of contract between the injured third party and the insurance company, so that at the common law, without statute, without Parliament intervening, the injured third party could not go against the insurance company. This statutory right which was given was the vehicle which was to be used in law for the injured third party to recover damages against the insurance company.

The Act made it an offence for the person who owned the vehicle or who used the vehicle not to have motor insurance coverage for the vehicle. Section 10 of Chap 48:51 requires an insurance company of a defendant to pay a judgment if it was obtained against any person insured by a policy issued by it.

Section 3 of the Act provides that:

"...it shall not be lawful for anyone to use, or cause to use, or permit any other person to use, a motor vehicle on a public road unless there was in force in

relation to the user of the motor vehicle by that person...such a policy of insurance in respect of third party risks as complies with the Act."

Section 12 of the Act prohibits an insurance company from avoiding payment in respect of certain specific matters. That is to say, if the injured third party got a judgment and he or she filed an action against the insurance company, the insurance company could not have raised any one of these issues to avoid payment, for example:

- "(a) the age or physical or mental condition of persons driving the motor vehicle;
- (b) the condition of the vehicle;
- (c) the number of persons that vehicle carries;
- (d) the weight or physical characteristics of the goods that the vehicle carries;
- (e) the times at which or the areas within which the vehicle is used;
- (f) the horse power or value of the vehicle;
- (g) the carrying on the vehicle of any particular apparatus;
- (h) the carrying in the vehicle of any particular means of identification other than the means of identification required to be carried by or under the Act."

What, therefore, happened was that other matters that are mentioned in section 12, such as the limitation of use of the vehicle and other matters in relation to use of the vehicle, were put in, in insurance policies, and the courts over the years have held that those matters can avoid the insurance policy as to payment to the third party.

It is in that context that in the Caribbean where we had similar legislation in all the countries—because as you know most of our countries took the English legislation—in Crane on insurance, this author who analyzed—

**Madam Speaker:** The speaking time of the hon. Member 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. R. L. Maharaj:** Madam Speaker, I am indebted to Members for their consent for me to continue. In *A Treatise on the Law of Compulsory Motor*

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*Vehicle Insurance* by Sir Alfred Crane, at page 203, in dealing with the provisions of this Act and similar legislation in the Caribbean, the author had this to say—and it supports the point that I am making, in that if we are going to pass legislation which would give the insurance company the opportunity of avoiding paying, we are going to put much burden on injured third parties; and therefore, if there is a commitment to protect persons who are injured, let us put it now if we are going to pass law like this. So you had a situation where this lacuna existed, and by the passing of this legislation that lacuna can be enlarged. On page 203 it states:

"In other words, the statute does not say that every motor vehicle insurance policy or security shall be deemed due cover of the liabilities defined in the Act. It provides that it shall not be lawful for any person to use or to cause or permit any other person to use a motor vehicle on a public road unless there is in force in relation to the user of the vehicle, by that person or that other person, as the case may be, such a policy of insurance or security in respect of third-party risks as complies with the requirements of the Act. Parties are, therefore, left free to make their own terms with respect to their insurance contracts or contracts of security, and no conditions or stipulations affecting third-party protection are implied in any contract."

**5.15 p.m.**

"Hence, with the spirit of competition and enterprise, different forms of insurance contracts are in use in which the parties agree upon different liabilities as comprehended within the protection of the policies. It has been already shown that the cover afforded by the policies ranges between protection of the assured against every possible eventuality connected with the use of a motor vehicle and the bare statutory third-party motor vehicle insurance protection.

Even with respect to the minimum protection which the owner or driver of a motor vehicle ought to establish, the conditions of the policy may be such as excludes the operation of the contract at a particular time, in a particular place or under particular circumstances. Instances of cases in which the policies were held not to have been in force at the time of the happening of the event giving rise to the claim may be obtained from the text at pp. 100—110 and 178—186. "

If the hon. Member for Diego Martin East reads these he will get many answers to his questions.



"Furthermore, it is open to the person owning a motor vehicle to contract for the cover of even less than the statutory requirements so as not thereby to insure the persons or classes of persons specified therein against liability in respect of the death of or injury to any person caused by the use of the vehicle on a public road. But the law prohibits the use of the vehicle on the road until the liability defined in paragraph (b) of subsection (1) of section 4 is completely covered.

If, therefore, the owner or driver uses a vehicle on the road under an insurance policy which does not cover the particular liability which resulted in damages being awarded against him (e.g. where the policy merely insures against liability for the death only of third parties), the third party (the person obtaining the judgment) would be unable to obtain payment by the insurers of a judgment in respect of a liability *not covered* by the policy (e.g., for non-fatal personal injuries). If, to give another example of a policy which does not cover the whole range of liability required to be covered, there is no indemnity given the assured against a liability for the fees and travelling expenses, etc..."

Then it goes on, at about the last five lines from the first paragraph—

"Again, if either the subject-matter of the insurance or the risk insured by the policy is so defined, described or limited that it excludes the event giving rise to the cause of action against the assured, the liability will be one *not covered* by the terms of the policy"

So, we see a situation in which a law which was genuinely attempted to protect the victims has been used over the last 60 years or so to defeat the object of the Act. If, therefore, we put in legislation a provision which would give a person who is not the owner the right, or licence to drive such a vehicle and we do not specify in the Act that such a person would in any event be the servant and/or agent of the owner, we would be increasing the injustice which can be caused. Not only may it succeed, the point of the matter is the insurance companies use these matters and take years to have them litigated, when the matter can be stopped at one time.

So, it would seem to me that the Government, if it was not enlightened and if it now feels that it is enlightened—I do not think the Government would even admit today, or next day; I would be surprised—but the Government should really agree with us that this loophole ought to be plugged now.

**Mr. Sobion:** Would the Member for Couva South not agree that the problem he is identifying is not a problem limited to the use and operations of maxi-taxis alone?

**Mr. R. L. Maharaj:** I think my contribution makes it clear that it applies to the use of all vehicles. What I am saying is that in respect of these vehicles where they are going to permit persons who are not owners to drive and where there can be accidents, there can be many people driving vehicles who are not the sons of the owner, the relative of the owner, in which case it may be easier to say it is a servant and/or agent and even in that kind of situation it has been very difficult to establish. So that, in effect, what you are doing is having a sort of independent contractor relationship or a bailment relationship and you will have to establish that it is a servant or agent if the policy covers the relationship of servant or agent.

So, if it is that we are going to vote in respect of a piece of legislation which can have the effect of denying people compensation for injury, I think that it would be reasonably justifiable for us not to vote for it unless the Government plugs the loopholes.

As was promised in 1992 when the Government said it was going to bring measures to comprehensively review the use of maxi-taxis and to ensure that the necessary insurance will be available to vehicles, I should have thought that it would have looked at this matter to ensure that we do not have these loopholes; but it seems to me that the Government does not really know what it intends, or what it is doing.

On May 29, 1992 at 3.55 p.m. the hon. Member for Diego Martin East—I hope I am reading it correctly, this is the copy I have—in his contribution said—

"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 the 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 lower music levels in Maxi-Taxis..."

So the Government's position was not that there should be no music in maxi-taxis. It was that it would lower the music levels in maxi-taxis.

Two years ago when we raised some of these matters the Government indicated it was coming with measures to give this kind of permission, but as things stand it shows that it did no comprehensive review of this legislation. It was not well thought out and the Government is just trying to please public

opinion, which is very emotional on the issues. Policies are not formulated that way. Laws are not drafted on the basis of that kind of policy.

The hon. Member for Diego Martin West in 1992 also, as part of the Government, promised a comprehensive review of the Maxi-Taxi Act. Said he in the section of his speech:

"I give you the assurance, in supporting my Friend the Member for Diego Martin East, the Government was 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. We are in the process of doing a comprehensive review to deal with all the other matters such as music and whatever else to do with maxi-taxis."

Well, if he is doing a comprehensive review, I should have thought that he would deal with insurance coverage and what happens when an injured party has a claim and has to wait years in the courts to get it. I should have thought that he would deal with whether to increase statutory liability for insurance companies in respect of injury compensation. Ad lib, I think it is about \$250,000. Should it be more?

**5.25 p.m.**

If there was a comprehensive review of this matter, what the Government would have come up with was either what has been opted for in the United Kingdom—the creation of a motor insurance bureau. To this bureau any person injured in a maxi-taxi, or any motor vehicle could appeal, but if they wanted to start it with maxi-taxis, they could have done so. The injured would not have to wait years, they would not have to wait on insurance companies; their claims would be paid and the motor insurance bureau would be statutorily responsible for getting the moneys from the insurance companies.

**Mr. Sudama:** I proposed that three years ago.

**Mr. R. L. Maharaj:** The hon. Member for Oropouche, I understand, proposed that three to four years ago. I should have thought that any comprehensive review of this legislation would have considered whether the procedure in 1930 by which a person has to first file an action against an owner and a driver and when he goes through High Court, Court of Appeal, Privy Council, if the insurance company does not pay, he then has to file a new action against the insurance company. I should have thought that the law would have changed that to permit him to file at once against the defendant, the insured and

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the insurer. I would have thought that would mean a comprehensive review in order to give justice to the victim.

Why should a litigant, a defendant or an injured victim have to wait seven years or ten years to fight the defendant, the owner or the driver and then spend another ten years fighting the insurance company? By the time he gets his compensation, he does not need that again. He is probably six feet under.

To me, if there was a serious comprehensive review of this matter, the Government would have considered when a person has a judgement and he can get only six per cent statutory interest on his judgment, but he has to pay 20, 15, 18, 22 per cent at the bank, whether the law should not be changed to make insurance companies pay 20 or 25 per cent, as the case may be, in respect of judgments which they did not pay.

If we had a comprehensive review of this matter I should have thought that the Government would have included a penalty against an insurance company which litigated a matter without any proper basis; that there would be some means of censure, some means of making that insurance company pay and pay probably double the cost, double the compensation, so that the victim, the person who suffered the injury, would benefit.

What is the comprehensive review? Is this comprehensive review of the Maxi-Taxi Act, promised two years ago, a section saying that an operator could drive but not play music in maxi-taxis? Is that the comprehensive review?

Another point I want to raise in this debate is one which seems to me not to make sense at all. I want to analyze this clause 9 because it seems to me that if this is what the Government intended, it would not have the desired effect. Clause 9, introducing 12A(1) and I read it very slowly:

"12A. (1) The use of televisions, videos, radios, tape decks, compact disc players, amplifiers, equalisers, speakers or other electrical or electronic equipment for the purpose of playing music or other electrically or electronically transmitted sounds in a maxi-taxi is prohibited."

Then proposed subsection (2):

"An operator of a maxi-taxi who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars."

I want you to understand what this Bill is saying. The use of televisions, et cetera., for the purpose of playing music, is prohibited in a maxi-taxi and the operator is

liable. So the operator of a maxi-taxi using these things for the purpose of playing music commits an offence. We all know that legislation which creates criminal offences must be strictly construed.

Therefore, if one looks at this, it refers to the operator who uses these instruments, the television or the radio, for the purpose of playing music; therefore, the passenger who has it can play it. According to this, he can play it. A passenger can walk in with a radio and he can play it. I would invite anyone on the other side to tell me how he is covered. In any legislation, it is intended to cover passengers, because a passenger cannot be vicariously liable for the criminal acts of the operator, of another person, in these circumstances. This is criminal law and in effect, if one looks—I am sorry. The operator cannot be vicariously liable for the acts of the passenger.

If we look at the legislation in Barbados or Jamaica, in other countries, we see that it is intended to impose criminal sanction not only against the driver of a vehicle, but also against passengers. One has to frame the regulations differently. I do not want to use my time going into the details of that, but the point I want to make and put as a matter of record in this House, is that this legislation as drafted, cannot make a passenger liable for the use of a radio in a maxi-taxi if he uses a pocket radio.

So that if the object is to prevent noise in maxi-taxis and passengers walk in—unless they walk in with walkmans and put the knobs in their ears—with rasta boxes, with big boxes, with small boxes, and they make a lot of noise, I want to know under which law they are going to be prosecuted. Not under this law! If this is passed as it is, it would apply also to televisions and other instruments.

I think if the Attorney General could only appreciate—

**Madam Speaker:** I can assure you that the Attorney General is appreciating your argument.

**Mr. Sobion:** But he may not accept it.

**Mr. B. Panday:** Of course, listening but not accepting.

**Mr. R. L. Maharaj:** And in regulations, if one really wants to get the operator in respect of another matter—not the point I have made but in respect of another matter—it should be: "No person shall play or cause to be played on any vehicle any instrument or any equipment." Or whatever it is.

It seems to me—and my duty is to point it out to the Government—that if this is left as drafted, it is going to create many problems; because a person who is

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charged for an offence under this Act can then take the point before the magistrate; he can ask the matter be referred under section 14 as a contravention of his right, and the object of the Act will, in effect, be frustrated. Therefore, it seems to me that the Government should do that. If my Friend the Member for Diego Martin East does not know, and I am sure the Attorney General will tell him, under the Legal Profession Act—

**Madam Speaker:** You are forgetting the hon. Member for St. Ann's West.

**Mr. R. L. Maharaj:** No. I am sure the hon. Member for St. Ann's West would have already told him that under the Legal Profession Act, an attorney-at-law is required to take every point in favour of a person who is accused or a person who has a case. Every point in favour of him! If he does not do that, he would be contravening the ethics and the requirement of the law. So if this law is passed, and whether my good Friend the Member for St. Ann's West or my Friend the Member for Diego Martin East when he becomes an attorney, if he decides to take the point, nobody can criticize him for that.

**Mr. Imbert:** What is the point?

**Mr. R. L. Maharaj:** Madam Speaker, there is another point in this matter and I would like to draw it to the attention of the other side. We feel that if we support these measures as they are, we may be doing something that is unlawful and unconstitutional. This is a case where one is not altering the Constitution; this is a case where a measure is being passed which is inconsistent with sections 4 and 5. If that law has to be passed, it must be shown that it is reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.

**5.35 p.m.**

For example—and if I may read it from section 13 of the Constitution of Trinidad and Tobago. It states:

"An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 and, if any such Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual."

So I want to ask certain questions aloud. How could this Act be reasonably justifiable in our society if the Act does not provide safeguards for persons who are injured in motor vehicle accidents, and subjects them to existing lacunas in the law which can deny them compensation? Secondly, how can this Act be

reasonably justifiable if the measure which is involved in this Act is discriminatory, in that it treats the maxi-taxi driver/operator unequally in relation to public transport vehicles and ordinary taxis?

How can this Act be reasonably justifiable in our society where it may not be required in Tobago, or there may be a different degree of the problem in South, Central or East Trinidad, or in certain parts of North Trinidad, but you want to penalize everyone for a problem in respect of a particular area? How can this Act be reasonably justifiable, when the Government has not shown by its contribution here to this Parliament what survey it did; what scientific criteria it had; on what basis it is taking away these fundamental rights?

How can this Act be reasonably justifiable when the procedure which was used to have this Act here and to have it passed was without a referendum, without a Green Paper, without a White Paper and without a national consultation?

If the other side does not know, there has been a recent case in Guyana; there are recent authorities—I can pass them to the Attorney General—in England, where if consultation in respect of ordinary legislation which affects people's interests and rights are not held, if those interests were not consulted, the courts have the power, on that basis alone, to strike down the legislation. Consultation in any book, *Wade and Bradley* on Constitutional Law; any book on constitutional law would say that consultation is an essential pre-legislative process and the failure to do it is very severe. I am not dealing here with an ordinary piece of legislation; I am dealing here with an extraordinary piece of legislation in which a specified majority is required, and how it could be reasonably justifiable.

It would seem to us that this Bill and its contents are not reasonably justifiable in our society which has a proper respect for the rights and freedoms of the individual. It is discriminatory; it does not provide effective redress for injustice caused by the implementation and operation of the Act. The procedural requirements of consultation which is an essential pre-legislative process was not complied with and on that basis alone it goes by the board. Just as the Privy Council struck down the Government's attitude to the amnesty and its attitude to the Judicial and Legal Service action, this is liable to be struck down in the same way.

**Mr. Valley:** We want to give you a chance to go to the Privy Council again.

**Mr. R. L. Maharaj:** Madam Speaker, I know that is the contempt they display, because they do not spend their own money; they spend taxpayers' money

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and the attitude of the Member for Diego Martin Central—hear him: “We want to give you another chance.” They spent \$10 million of taxpayers' money, to go to the Privy Council. That is the contempt and the arrogance that this Government has. Ten million dollars of taxpayers' money, before they consider carefully what they are doing! That money could have provided hospital beds for people, buses.

**Madam Speaker:** All right, let us move on. You have four minutes more.

**Mr. R. L. Maharaj:** Madam Speaker, I would like to leave some words with the Government of Trinidad and Tobago. They must show courage, judgment, integrity and dedication. When they are wrong they must have the courage to say that they are wrong, admit their error and, in this case, withdraw the Bill. They must show judgment, integrity and dedication. Therefore, I should like to quote the late John F. Kennedy who said:

"From those to whom much is given, much is required. And when at some future date the high court of history sits in judgment on each one of us—recording whether in our brief span of service we fulfilled our responsibilities to the state—our success or failure, in whatever office we hold, will be measured by the answers to four questions:

First, were we truly men of courage—with the courage to stand up to one's enemies—and the courage to stand up, when necessary, to one's own associates—the courage to resist public pressure as well as private greed?

Secondly, were we truly men of judgment—with perceptive judgment of the future as well as the past—of our own mistakes as well as the mistakes of others—with enough wisdom to know what we did not know, and enough candor to admit it?

Third, were we truly men of integrity—men who never ran out on either the principles in which we believed or the people who believed in us—men whom neither financial gain nor political ambition could ever divert from the fulfillment of our sacred trust?

Finally, were we truly men of dedication—with an honor mortgaged to no single individual or group, and compromised by no private obligation or aim, but devoted solely to serving the public good and the national interest?"

If this Government is truly dedicated and committed to serving the public good it cannot and ought not go ahead with this piece of legislation as it is.

Thank you very much, Madam Speaker.



*Adjournment*

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#### ADJOURNMENT

**The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley):** Madam Speaker, I beg to move that the House do now adjourn to Wednesday, March 16, 1994 at 1.30 p.m.

I have had consultation with the Leader of the Opposition. On that day we are going to complete the debate on the maxi-taxi legislation and start the debate on the Finance Bill, 1994. The Finance Bill will be available to Members as of Friday, March 11.

**Madam Speaker:** Before I put the question, may I, as Speaker, make a suggestion to Members of the House on this Bill we are debating. If all the legal minds on both sides of the House could work together on the questions that were raised on both sides, I think that we would be sending the right signal. Have a meeting, wherever you wish to convene it identify the lacunas, if there are any, and the matter would be thrashed out. I think I am an attorney of some repute, and if my assistance is required, it is available.

Let us get down to the brass tacks of this and resolve the points and issues in question.

**5.45 p.m.**

#### Denigration of Women in Calypso

**Miss Hulsie Bhaggan (Chaguanas):** Madam Speaker, I wish to thank you for granting me permission to raise this Motion which has to do with the level of lewdness and the denigration of women in calypso this year.

I raise this issue against a particular background. First, this is the Year of the Family, and it is, therefore, a time for us to reflect upon the environment in which we live. We have to examine the basic principles and values within which families are nurtured. Secondly, today we speak of a nation in crisis; we are seeing a breakdown in values. In fact, most of us are appalled by the level of wantonness in our society. It is, therefore, important for us to look at the various spheres in our society and see how we can resolve some of the unresolved issues, to be able to deal with the crisis presently facing us.

Fourthly, we need to understand that music, in any form, has a great impact upon human psyche and behaviour. As a matter of fact, studies in North America, for instance, have shown that when rock concerts are held, the level of crime in those cities increases. If those of us who go to fetes or read about fetes examine

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this, we would see that quite often there is the tendency for women to be attacked after fetes; for instance, they are raped. In fact, violence, also, is becoming a norm within fetes.

Also, this is the year when we are preparing for the United Nations Fourth Conference on Women which is going to be held in Beijing in September, 1995.

From all points of view, citizens in our country have been openly expressing their disgust at the level of lewdness in calypso this year. There have been letters to the editor, call-in programmes, man-in-the-street interviews, and basically, the citizenry is saying that we have to do something about our calypsos as they emerge year after year.

Over the years calypso has been controversial. We have had complaints of ethnic stereotyping, outright sexism, racism, disrespect to religion and, in particular, we have had the lewdness in song and denigration of women. We all accept that calypso is part and parcel of our cultural mosaic. We all appreciate calypso because we believe it is important, and it is a very important form of social commentary; but, we cannot sit by and allow this art form to reach the stage where it almost becomes a sin to listen to it.

What I basically did was to look at a few of the calypsos this year—I did not go through any historical research, but we all know that this has been coming to a head and right now it is at an all-time low—and just for the sake of putting this in perspective, I felt I should read out some of the lines of the calypsos of this year.

I start with Crazy's *La La Lay*, whose song could be heard on the radio, on television, in the tents et cetera.

She come ponging dong meh door  
Crazy lend me yuh screwdriver  
Ah didn't know she could screw so  
If you hear she  
And a lot of sexy sounds coming after that.  
Ah try to make her understand  
that she doh bong to give it all with the tool in she  
She screwing dong the wall.

Ajala's *Stick it up*:

Stick it up with ah man and come.

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Stick it up

Lift up yuh leg and come...

Bend dong and wine and... yuh cock out.

I want to wine on ah big, big bottom...

Chinee woman love to wine

Indian woman love to wine

African woman love to wine

White woman love to wine.

Denise Belfon's *Wine like ah dog*:

Hold the man behind,

Lift yuh leg and wine

Wine like ah dog.

Go back and forward or else it go look awkward,

Man we choking.

Anslem Douglas' *Wine Dong*:

Start tuh wine gyul,

Wine dong, roll up the bam bam

Wine dong, doh miss meh programme,

Wine dong, show meh all the signs,

Wine dong, swing the thing,

Gyul shake the ting, rub up the ting gyul.

Crazy's *OPP in the party*:

OPP in the party

Then he says jump about six times.

4-Q-riosity

4-Q-riosity

Ah just want it Lucy

Ah just want it...

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Iwer George's *Time to Wine*:

All man wine up on a woman,  
All woman wine up yuh bam bam  
Oh lard, oh gad, oh gawrd come, come.  
If ah woman doh have ah man,  
If ah man doh have a woman,  
Dey could make a borrow.

Collin Lucas *On she cassette*:

Rewind, fast forward, eject outside  
She scramble the DJ,  
She want tuh fight  
Ah feeling to grind,  
When he try to pull away cuff, kick and bite on she cassette  
Ah feeling tuh wine, wine, wine.  
In the bacchanal I hear granny bawl out  
"Wat is all this fuss about;  
If the gyul wouldn't hush she mouth,  
just gee she two clout and put she out."  
Ladies rewind yuh cassette on yuh man deck,  
make him fast forward and eject.  
Slam on she cassette,  
Grind, wine on she cassette."

Then Chandileer sang one *Put yuh hand where it feeling sweet*. Gypsy sang about *Take out your balls and roll it*. Are we prepared to accept this as part of the culture of Trinidad and Tobago?

Madam Speaker, as I said, we have had many citizens speaking on radio programmes, writing letters to the editors and so forth, but I should like to read one commentary from the *Express* of Wednesday, February 23, 1994 headlined "What's the difference?"

"Would somebody please explain to me the basic difference between dub music and soca/calypso?"

While watching the soca monarch competition on Carnival Friday, I was amazed (I still am actually) at what the patrons were applauding as talent.

I kept asking myself, 'Is there a difference between, for example, Machel Montano's use of puppets to simulate sex and most Jamaican dub artistes' use of real life female 'puppets'..."

Apparently, this was at the Dimanche Gras show.

"My common sense said no, that they were one and the same thing, manifestations of a base, idle, corrupt mind and that they are both in effect working against the positive forces that be.

Still, most hypocrites under a mask of patriotism would have us believe that because it is our culture we must condone and embrace it while rejecting dub music as nonsense and anti-social.

So, I suppose when Colin Lucas says 'rewind, fast forward, eject/outside the flipping fete' he is being mindful of impressionable youth and acting responsibly. And when Iwer George says 'If a woman ain't have a man/and a man ain't have a woman/yuh could make a borrow/pay back tomorrow' he is being culturally sound! And when Denise Belfon instructs us proudly to wine like a dog she is patriotic beyond comparison right?...

Cynicism aside, this is not culture. This is madness, the same madness that informs the senseless killings of innocent citizens...and the delinquency of our youth.

It is a madness founded in irresponsibility, finding its roots in spiritual decay.

Yes, in case we have not realized it as yet, the moral fibre of our society has 'gone through,' the spirit of the average Trinbagonian is dead and therein lies our problem."

The writer went on. This is just one of the commentaries from the citizens of this country.

The Hindu Women's Organization, among several other organizations, also commented on this issue. This has to do with the Hindu Women's Organization in an article in the *Sunday Express* of February 13, 1994, page 4:

"Hindu Women see kaiso all-time low

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The Hindu Women's Organization of Trinidad and Tobago has hit out against calypsonians, especially Cro Cro, for degrading Hindu women in their compositions.

President of the organisation Raveena Sarran Persad said in a release that it felt compelled to voice its opinion 'in the wake of the deafening silence of all political and social organisations, women's groups and...(NGOs), to the many degrading calypsos aimed at women.'

'Most calypsos have reached an all-time low in the use of dirty lyrics and vulgar expressions. Wine and jam and lewd insinuations are the order of the day, with Crazy leading the way, ...'

We have had some good calypsos this season, but basically, from the reviews I have done—and I have personally listened to these cassettes—it appears that the majority of them focused on women as sex objects; they focused on wine, jam and the whole sex act; so everything has now moved away from the cultural aspect of calypsos to one where sex becomes the central theme, and women have become objects to use, abuse and do things on. Women are no longer to be respected, be intelligent or have a mind of their own.

### **5.55 p.m.**

In that context, I wish to make particular mention of a calypso. It was sung by a gentleman called "Cro Cro". Here the words of his song in which he was referring to me. He said:

"I was playing the jackass on the highway "

He is referring to himself now—

"Ah pay licence and yuh cyah tell me ah cyah pass,

If ah was coming ah would ah surely bounce dong yuh"—a word to rhyme with that. Then he said:

"Yuh cyah interfere with the public utility,

That's the height of disrespect to all ah we,

Yuh shoulda be glad ah wasn't drivin a truck sister,

Yuh woulda end up San Fernando on me bumper."

He goes on:

"Woman ah really believe yuh were dragged up fuh true,

The police dem shoulda gee she ah good cut tail and get the rest from a big fella in jail."

This person is advocating rape, violence and police brutality.

This calypsonian ended up as a finalist in the *Dimanche Gras* competition, which we, as taxpayers, contribute towards the hosting of—and he received the fifth prize. I understand in years previously he did worse than this and he got first prize. What kind of standards and what kind of values are we projecting in our country when a person could actually advocate violence against a person; police brutality and rape, and that person receives a prize?

Then, we have a person who goes about the place pretending he is very perfect. He is the head of one of the police associations. He is a policeman. In the calypso arena, his name is "Watchman". In his calypso he says:

"Them bandits in jail wanted she tuh stay,  
They start drinking seamoss and bois bande."

Then he tells me as a single woman

"Yuh better get a husband."

Madam Speaker, I am hearing comments on the other side that that is the real crux of the matter. I am glad the Members brought that up.

I wish to thank both Cro Cro and Watchman for introducing my name and denigrating me in calypso because it gives me the legitimacy to come in this House and raise this matter.

Generally, when we talk about calypso we talk about women in general. We do not personalize it. We do not think of ourselves, well, if it was my daughter, my sister or, I, as a woman; we tend to look at it as a general thing. I have been a victim of this. I make it very clear as a politician I have no problems if people attack me; but when they advocate violence against me, as a woman I take strong objection to that.

There are other persons who have brought up the matter. I have a letter from a gentleman St. Clair Wesley Dorant, who made some very good points in this letter about the kind of calypsos we have had, and whether we should be tolerating that. I would not bother to read what he has written. I want to read one written by Mr. Patrick Watson, who is the Deputy Dean of the Faculty of Social Sciences at UWI. He was referring to the calypso sung on me by Cro Cro. The headline is:

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"Sympathy for Bakr, criticism for Bhaggan" *Trinidad Guardian*, Wednesday, February 23, 1994 page 6.

"There appears to be more than a little inconsistency in the way Cro Cro reflects his own respect for the law in two of his calypsos 'Say a Prayer for Abu Bakr' (1991) and 'Respect the Law' (1994).

In 'Say A Prayer,' Cro Cro refers to the events of July 1990 and concludes that "Abu did it for all of us" and, in gratitude, we should 'Say A Prayer' for him.

In 'Respect the Law' Cro Cro chides Hulsie Bhaggan for carrying out a dramatic but fairly routine protest action by participating in the blocking of the Uriah Butler Highway and, in fairly strong tones, threatens violence against her for causing the pile-up on the highway.

The action taken by Abu Bakr and the Jamaat al Muslimeen in July 1990 was clearly illegal, whether or not we think it was justifiable. Furthermore, lives were lost, the entire country was shut down for about a week, and a State of Emergency was declared which lasted for about five months and which deprived us all of our usual liberties. Ms. Bhaggan's actions pale into insignificance in comparison: no lives were lost and at worst some commuters suffered temporary inconvenience.

Ms. Bhaggan's actions must be seen in the context of one of the worst flood disasters to hit Central Trinidad and this after decades of persistent flooding. Whatever the legality of her action, it received widespread support from her constituents in Central Trinidad who are more than fed up with this state of affairs and who are not prepared to accept that they are merely the victims of geography.

I have no doubt that Abu Bakr and his men felt similarly aggrieved when they stormed Parliament and other public places on July 27, 1990, an action which had much more serious consequences than Ms. Bhaggan's.

It is therefore very difficult to understand how anyone can seek sympathy for the actions of Abu Bakr on July 27, 1990, and with the same (if not greater) fervour condemn Ms. Bhaggan for blocking the highway for a few hours. What really is the difference between Abu Bakr and Hulsie Bhaggan?

There are two obvious differences: Abu Bakr is male and African while Hulsie Bhaggan is obviously female and obviously Indian. In the absence of any more obvious differences, I am forced to ask the question: Is feeling aggrieved the sole domain of the male or the male African? Put another way,



does Cro Cro believe that a woman, an Indian woman to boot, has no right to lead protest action while an African male is permitted to do much more?

I am not going to join any chorus about whether or not Cro Cro is a sexist and a racist. But I will say that he is providing no evidence to allow any other conclusion. How else can he explain the different standards applied to the two cases of Abu Bakr and Hulsie Bhaggan?"

My comment would have been exactly this. The Deputy Dean of the University of the West Indies has put it most succinctly. I chose to raise this matter today for several reasons, as I have explained the background. There are several women out there who are saying, if female politicians are to be denigrated where they are not treated as politicians but as women, and they are dragged in the mud so to speak, then they are afraid to enter the political field. My own feeling is that we need more women in politics.

I thought I would raise this issue so that we would be able to let those women who have an interest in politics know that this is not something that should be tolerated; that it is being raised in the highest forum of the land and that they should not be afraid of people who would denigrate them. I am saying that as a Parliament, we also have to make a statement saying that we will not accept that.

I was trying my best not to be political about this by attacking Members on the other side. I could not help overhearing the comments of the Member for Diego Martin East. I would say that maybe, he is one of the sexists in our community who would insist on supporting this kind of contention. Why else would he heckle me when I am raising an issue which is affecting everybody in our society, an issue which is being raised in the Year of the Family, when as a community we ought to be more careful with what we project outside?

For instance, *Dimanche Gras* is portrayed as one of the competitions, internationally. Trinidad and Tobago comes on the stage then, I am not talking about the tents. So, calypsonians reaching that point must observe certain standards. Even if they are going to talk about politicians, it must be done tastefully. We are talking about the eyes of the world being on us, so we have to be very careful. Secondly, being stakeholders in this event—because we are taxpayers and our moneys are being utilized there—I believe our interest has to be served. The interest of the public has to be one where the values of our society must be promoted.

I wish to make strong objection in this House to the way the calypsos went this year.

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**6.05 p.m.**

I also want to suggest—and the Member for Oropouche referred to the item—under the Public Holidays and Festivals Act, there are the Carnival Regulations 1993. Regulation 2(1)(j) states:

"No person shall—

(j) sing or recite any lewd or offensive songs."

I should like to know what the National Carnival Commission is doing with respect to that song sung by Cro Cro in particular. As far as I am concerned, that is an offensive song.

There have been lewd calypsos, as I mentioned, and I should like to know what is the National Carnival Commission, doing to enforce these regulations. Not only are these calypsos being allowed, but calypsonians are being given prizes for this.

A comment I would like to make is that in the tents, if we are not prepared to enforce whatever laws there are with respect to obscenities and lewdness, then we should decide to make those tents an adult only venue, because young people do go to the tents and they are exposed to all kinds of obscenities on those stages. I have been to the tents and I can tell you what happens there. If we are not going to enforce the law, let us say therefore, the tents are only for adults—18 years and over. We cannot allow our young people to continue to be bombarded by radio and television, and now by the calypsos which are sung, including dub, to the extent where this is getting to the very psyche.

The point is that this is just not a question of calypsos alone. This must be taken in the wider context of our social development, as a society and as a nation. As Parliamentarians we have a social and moral obligation to express our views when these matters arise. I am doing this in that context. I am not saying here that calypso is bad. I am saying, let us restore dignity to calypso.

Let us make sure that we put in some kind of code of ethics or we enforce the regulations so that lewdness would be controlled and women would not continue to be seen as sex objects and would not continue to be denigrated. Women ought to be respected, because that lack of respect in itself is contributing to some extent to the violence we are seeing against women in our society.

Thank you, Madam Speaker.

**The Minister of Community Development, Culture and Women's Affairs (Sen. The Hon. Joan Yuille-Williams):** Madam Speaker, first of all, let me thank the hon. Member for Chaguanas for her interest in this art form. She certainly availed herself of a number of the works that were produced by our artistes this year.

There is one correction that I would like to make concerning *Dimanche Gras* and the name of one of the artistes who was supposed to appear on that show. I should like to take up from the end of her contribution where she referred to the National Carnival Commission, to put her statements in context.

The National Carnival Commission has been appointed by Parliament to attend to matters which directly or indirectly pertain to the Motion. This is in accordance with Act No. 9 of 1991. Section 9 (1) states:

"The Commission may do all such things as are necessary or convenient for the purpose of exercising the powers and performing the duties and functions conferred or imposed on it by the Minister and this Act and in particular the Commission shall perform the following functions.

- (a) the regulation, co-ordination or conduct of all carnival activities throughout the country held under the aegis of the Government;
- (b) the development, maintenance and review of rules, regulations and procedures for the conduct of carnival festivities throughout the country;"

In performing this function, the NCC has established rules, regulations and systems regarding the calypso monarch competition which it conducts. This wide sweep includes basic criteria, judges chosen for their ability and integrity; NCC managerial supervision and general "intouchness" with the social and cultural directions of the national community.

The specific rule which pertains to the Motion which borders on lewdness and denigration is rule 4 (c). It states:

"Calypsoes considered to be indecent, obscene or defamatory would be rejected."

That includes those from the preliminary phase. There are instances on record of NCC judges finding over the years lyrics which infringed that rule No. 4 (c) and the judges acted accordingly. This year the NCC had reported no objections to calypsos.

**Miss Nicholson:** Madam, are you in charge of women's affairs?

**Hon. J. Yuille-Williams:** There seemed to have been a halt in the declining quality of the lyrics. It was noted that there was an emergence of calypsos which in fact addressed the uplift of women. One must look at both sides. For example, Calypsonian Powder's "Run Out of Parts"; Byron's "Lady"; Denise Plummer's "Hand That Rocks The Cradle" and Bernadette Paul who is a most promising female calypsonian with "You Hurting Me."

The NCC believes that the new wave of party tunes may be responsible for some of the allegations of lewdness, but even these are reportedly becoming quite harmless, except where they exhort patrons to do a whole new range of things which are perhaps aerobically dangerous. They recommend that any assessment of the season's calypsos should be based on consideration of the widest range of calypsos sung for the season, drawing from all the tents, competitions, the junior efforts and not merely based on a relatively small number of radios or maxi-taxis.

For example, this year, in our Calypso House there were about nine female calypsonians and a female MC. It was also noted that of the 22 calypsos sung at the monarch finals this year, several were of social value ranging from comments on crime to concerns for the environment. The NCC also further encourages by offering a prize each year for the calypso with the best nation building value.

The Ministry of Community Development, Culture and Women's Affairs is now in consultation with the NCC and they would be looking at awarding a special prize for calypsos which are in tribute to the womenfolk of our country. It is commendable that the hon. Member brought this Motion, since it reflects the commitment, the programme of action and actual undertaking of the Ministry of Community Development, Culture and Women's Affairs.

There can be no harm in serving notice again and again on our artistes about their responsibility to the wider national community. However, one person's sense of offence may sometimes be another person's exercise of artistic freedom. It is axiomatic that what is thought to be one person's freedom of speech, on the BBC for instance, can be a whole country's embarrassment and, in fact, denigration.

We need to remember that art and culture are not exact sciences and that sometimes what is intended to be sincere expressions may be perceived as having crossed that very narrow line of discomforting imposition. One must not lay charges of lewdness and denigration only against the calypso without singling out other areas of expression and communication.

This Government has consistently signalled its intention to take action wherever there is a critical public concern with what appears to be the declining levels of moral conduct associated with what is called lewdness. This is evident by the consistent and comprehensive action in the case of all types and levels of music played normally, for example, in the maxi-taxis, an action which appears to have gained tremendous support in the national community.

### **6.15 p.m.**

The calypso is an especially dynamic art form which continues to take shape as we see and hear it each year. In its best state, the experts argue, it is more clever than common, more vivid than vulgar, more risqué than risk. As everyone knows, not even a government is free to be negatively sensitive to calypsos which criticize or poke fun at its conduct or its members. We take calypsos in stride. Once you know that, on behalf of your country, you are indeed driving well.

This Government is committed to the practice of the highest level of enlightened democracy and, therefore, must be mindful of the danger that even the smallest step towards what may be censorship could be an unstoppable stride towards muzzling the licence which all art and culture must have in order to flourish, but we will always work to have both good sense and good taste prevail in this country.

I wish to give this honourable House the assurance that my ministry with its multiple responsibility for community development, culture and women's affairs, will continue to ensure due respect for all women and, simultaneously, healthy expression of the calypso art form—two undertakings which we do not at all regard to be mutually exclusive.

I thank you.

### **Penal/Debe Regional Corporation**

**Mr. Trevor Sudama** (*Oropouche*): Madam Speaker, after hearing that stirring defence, I think I shall be brief. After hearing a defence of the indefensible, let me not take up too much time in this House.

I raised a Motion on the Adjournment because I wish to bring to the attention of the House the operation of the Penal/Debe Regional Corporation. *[Interruption]* The Penal/Debe Regional Corporation, as you are aware, is a new body established as a result of the Local Government Act, which was passed in 1991. When that corporation was established, one would have expected that any government—I see the Member for Diego Martin Central, the Attorney General

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and the Minister of Health, who have so many responsibilities and cannot seem to attend to them, are having a discussion in the middle of my contribution.

**Mr. Valley:** The meeting has already adjourned; we are only paying you a courtesy by remaining here.

**Mr. T. Sudama:** You can go, but when you go home you should stay home. Do not bother to come back to this House. Stay home because you are absolutely no use here.

**Mr. Valley:** Let me just let the Member know that when I go home, I go home to somebody.

**Mr. T. Sudama:** He goes home to somebody, but if we ever invoke the Domestic Violence Act, he might not even be able to come back. *[Laughter]* He is looking for blows. Do not tackle me. I did not intend to be long, but I am being provoked.

This new corporation, the Penal/Debe Regional Corporation, was established, and one would have thought that when one passes legislation to put things in place one would have financial and administrative provisions for it to work. This is a criticism we have been making of the Government over the years. It comes up with bright new ideas, makes laws, yet does not implement and make provision for these new institutions. This is the problem with the Penal/Debe Regional Corporation which reflects a wider problem, that is, Government's lack of commitment to local government.

When I go through what has been happening at the Penal/Debe Regional Corporation, you will understand that this Government is totally indifferent. *[Interruption]* When that corporation was established, it had no place to meet. It was told that it had to meet at the Siparia Regional Corporation Office in Siparia. It started to meet there and it was treated with the utmost contempt when it occupied the Siparia Regional Corporation Office, which is controlled by the PNM. I do not know if that was one of the factors responsible for the manner in which members of the Penal/Debe Regional Corporation were treated.

When they went to hold meetings at the Siparia Regional Corporation hall, the air-condition was cut off by the administration. They had no access to telephones. The meeting hall was a thoroughfare for the staff and anybody else who wanted to come in and go out while meetings were being held. They suffered great inconvenience and, indeed, great indignity by utilizing a corporation hall which really did not belong to them and over which they had no control. They

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were, therefore, at the mercy of the Siparia Regional Corporation and its staff. They felt that this ought not to go on and the members decided to hold meetings in a location over which they could have control. So they went to the Penal sub-office of the Penal/Debe Regional Corporation.

Because there was not enough space, they decided to hold their meetings outside and to build a tent, rather than to be subjected to the indignities at the Siparia Regional Corporation hall. This continued for some time; then it was felt that perhaps a more convenient venue would have been the Debe sub-office of the Penal/Debe Regional Corporation, where again, while there is a little more space, there is no enclosed space and they held meetings under a tent.

Things went on like this for a couple years until the middle of last year when the Debe wholesale market was opened. Now there is spacious accommodation not being used—I do not want to go into the reasons for that now—but there is a hall for meeting. The Penal/Debe Regional Corporation decided to ask for the use of those facilities for which they would pay a fee. I understand that the manager there thought that he had the discretion to do this and allowed them to use the facilities and pay a fee of \$100 every time they held a meeting.

**6.25 p.m.**

This went on for a few meetings. Meanwhile, representation was made on a monthly basis to the ministry` so that they could have the Penal/Debe Regional Corporation housed somewhere and eventually have its own administration building. Those pleas fell on deaf ears; there was always one excuse after another, and of course the problem of money was thrown in as the final excuse.

It cannot be reasonable and just for the Penal/Debe Regional Corporation to pay for renting a place from their own limited provision. Funds are already limited and if they take money from that, then they would not have money even to deal with a limited provision of services that the corporation is required to provide, and that is the critical point. If the Ministry of Works and Transport and the Ministry of Local Government tell the Corporation to find a place and pay their own rent, where are they going to get the funds from, which might come to a substantial amount over the year?

The Penal/Debe Regional Corporation was going along in this ad hoc fashion and suddenly a decision was made, apparently by the board of the National Marketing Development Company and endorsed by the Ministry of Works and Transport and the Ministry of Local Government, that the building would no longer be made available to the Penal/Debe Regional Corporation. Arbitrary,

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dictatorial, autocratic and insensitive, that is the style of this PNM Government; and that is reflected in that decision to prevent, on a weekly basis, the corporation access to a building which is non-functional, and which, under this Government, will never be made functional.

The members of the Penal/Debe Regional Corporation decided to revert to the Debe sub-office to hold their statutory meetings. On February 22, the Chief Executive Officer, a public servant, told the corporation members that she is not attending any meeting held at the Debe sub-office because of the insanitary conditions and the inconvenience. She also instructed her staff not to attend any meeting. As a result, the Penal/Debe corporation cannot function and things have come to a standstill in that area.

Furthermore, any decision made by the administration has to be approved by the corporation. Here is a situation where a statutory authority cannot function because public servants are saying that they are not going to function under certain conditions and have withdrawn. It is not only people elsewhere in the country who are involved in strike action; this is strike action that has brought a local government body to a standstill. Unilateral strike action! That is the style of government in Trinidad and Tobago.

Up to today there has been no resolution of this matter. What it also reflects is an underlying sentiment here. In order not to give the Penal/Debe Regional Corporation a home they are prepared, I understand, to eliminate it altogether as a local government body by redrawing the boundaries and presenting that later in the year, so that the Penal/Debe Regional Corporation will be absorbed into the other local government bodies. They are prepared to eliminate that, get rid of it; housing accommodation would not be provided for that Corporation. This makes a gross mockery of the commitment of this Government to the functions of local government.

I made the representation, in view of the area involved, that the Penal/Debe Regional Corporation should be a separate entity; the Government wanted it to be part of the Siparia region. If it were part of the Siparia region, there would have been one local body serving from Cedros to Moruga, coming up to the edge of Princes Town, going down to the edge of San Fernando and down to the sea. Almost 25 per cent of the land area of Trinidad and Tobago would have been served by one corporation had Penal/Debe become part of the Siparia region.

I objected to this in 1992 and the Government must have seen some merit in that objection and therefore Penal/Debe was created as a separate region. After



doing so, what they have in effect done, is, frustrate that body from functioning effectively in the interest of the citizens concerned. Today I have to raise this matter because we view local government as an essential part of the whole governmental system; we view it as a necessary part of the delivery of services to the man in the street. They provide so many services which make life a little easier for the masses of our people, and here you are doing things to deny and frustrate it.

I want an explanation here—if the CEO took unilateral action in what she did, what has the Ministry of Works and Transport and the Ministry of Local Government done about it? Has she the power to take such action? Or has she taken such action with the blessings of the Minister and his Ministry in order to frustrate the functioning of the Penal/Debe Corporation?

Given the situation as it now exists, what action to resolve the situation is being taken by the Minister of Works and Transport and the Ministry of Local Government in order to have the Penal/Debe Regional Corporation functional once more? Or, is he indifferent, as he is totally indifferent and insensitive to every representation that I make in this House with respect to the Works Department, Transport Division and the Highways Division and so forth? Nothing has happened, and I want to know whether the functioning of the Penal/Debe Regional Corporation will go the same route.

I am a very peaceful man, but there comes a time when one needs to take more radical action to deal with this kind of insensitivity. The time for such action may very well come in the near future, given the condition of the roads in Oropouche and the other services which we cannot avail ourselves of. That Minister in particular will have to be put under some heavy manners. However, before that time comes, we will go through the constitutional procedures.

I want everybody to understand that sometimes one is left with no choices or options, as in this case. If we see some kind of acceptance on the other side; if we see some sign, that yes, they may be interested in doing something positive, we will acknowledge it. If there is not, all I can do at this juncture is to make a plea in the House and then take the matter from there later.

**6.35 p.m.**

**The Minister of Works and Transport and Minister of Local Government (Hon. Colm Imbert):** Madam Speaker, before I deal with the substance of this Motion, I should like to deal with some of the side issues that the Member brought into the debate.

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I have had the unfortunate task to respond to the misrepresentations of the Member for Oropouche on a number of occasions. He made this statement that all his representations to the Highways Division have come to nothing, and nothing is being done in his constituency. It is precisely because of the continuous misrepresentation of the Member for Oropouche that the ministry decided to launch its Agricultural Access Roads and Bridges Programme in his constituency. The first road to be rehabilitated under that programme is in the Member's constituency; right now road-paving work is taking place in the Member's constituency, but he would come here in this House and say that is not true.

**Mr. Sudama:** Madam Speaker, on a point of order.

**Madam Speaker:** On a point of order or correction?

**Mr. Sudama:** A point of order, Madam Speaker, because the Minister is misrepresenting me. That work was not initiated by the Ministry of Works and Transport, but by the Ministry of Agriculture, Land and Marine Resources. Agricultural access roads are the responsibility of the Ministry of Agriculture, Land and Marine Resources, so what is the Minister talking about? His ministry is mainly the agent of the Ministry of Agriculture, Land and Marine Resources to carry out the work. It was not initiated by his ministry. The Member comes here to misrepresent the House.

**Hon. C. Imbert:** As I said, Madam Speaker, the first road that the Ministry of Works and Transport, under the Access Roads and Bridges Programme for which we are the executing agency, approved the Inter-American Development Bank, is in the Member's constituency, and right now road-paving work is taking place in the Member's constituency.

Let me deal with some of the other side issues. The Member made a number of insinuations, cast aspersions, threatened me, made all sorts of allegations—

**Mr. Sudama:** And I will carry out that threat, too.

**Madam Speaker:** Not in the House.

**Hon. C. Imbert:** —and as usual, he was engaging in misrepresentation. It is a pity that I cannot use other language in this House.

**Madam Speaker:** Please do not. [*Laughter*]

**Hon. C. Imbert:** So I will simply have to say that the Member was engaging in "terminological inexactitudes," and also that he is a stranger to the truth.

The Member deliberately alleged that there is bad treatment and indignity suffered by the Penal/Debe Regional Corporation where its members have to use the offices of the Siparia Corporation for meetings. This is not a coincidence; because the Siparia Corporation is controlled by the People's National Movement, it was a deliberate attempt by the Member to cast aspersions on a PNM council. For you to better understand the facts, it is necessary to give some history, because the Member also likes to rewrite history.

The Penal/Debe Regional Corporation came into being with the Municipals Corporation Act, No. 21 of 1990. I do not believe this Government was in office at that time. The Member for Oropouche—

**Mr. Sudama:** Madam Speaker, could the Member inform us when the elections were held? The Act was passed in 1990; when were the local government elections held, under the Member's regime?

**Hon. C. Imbert:** Madam Speaker, as I said, the Corporation came into effect in 1990, and there were a number of regional co-ordinating committees established by the former administration, which comprised those local government representatives who represented the districts that fell within the boundaries of the new corporations, and they carried on the business of these various corporations.

The Member for Oropouche made representations for the Penal/Debe Regional Corporation to be a separate region—because some time ago there was some consideration being given to the merging of the Penal/Debe Corporation with other corporations. Nevertheless, the Member made representations and we listened to him, and the Penal/Debe Corporation continued as a separate entity.

However, when the former administration established the Penal/Debe Regional Corporation in 1990, no provision was made for office accommodation, and throughout 1990, 1991 and into 1992, the corporation held its meetings at the office of the Siparia Regional Corporation—which I might inform this House is in the town of Siparia, some distance away from the centre of operations of the Penal/Debe Regional Corporation. The latter corporation found inconvenient the arrangements where it had to use the offices of the Siparia Corporation, quite some distance away in Siparia, and it was resolved at a statutory meeting on December 13, 1992, that an alternative meeting place be found.

One month later, the council shifted its meetings to the Penal sub-office. However, this also proved to be inadequate, and again inconvenient. The council, therefore, embarked on a search for a suitable building within the boundaries of

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the districts that comprise the corporation, and sought approval through the Property Management Unit for the rental—

**Madam Speaker:** Hon. Member, I do not like to intervene, but there are times when I have to. I see that the Motion on the Adjournment of the House is the refusal of the Chief Executive Officer and staff of the Corporation to attend meetings of the Corporation at the latter sub-office in Debe. So let us address the crux of the issue there, because it seems that is accepted by you. This is really the crux of the debate.

**Hon. C. Imbert:** No, Madam Speaker. With the greatest respect, there is an important point which was not made and which needs to be made. The Council of the Penal/Debe Regional Corporation sought rental accommodation through the Property Management Unit of the Prime Minister's Office, and several buildings were investigated and several were found to be suitable. However, there is a procedure for the rental of buildings for government business—the Valuations Division must do its valuation, but more importantly, the buildings must have approved building plans.

What has been discovered in the Penal/Debe area—and the Chairman mentioned this quite recently at a meeting of chairmen and mayors of corporations which is held at the ministry once per month—is that all the buildings that were identified as suitable for rental accommodation for the offices of the Penal/Debe Regional Corporation, within its boundaries, were deficient; they did not have approved building plans, and therefore, they could not be rented by the Government. This was the point I was making. The council, therefore, has taken the decision to construct a building. So there is a process in train.

In the meantime, the staff of the council, the public servants, have had to suffer some inconvenience, because the search for adequate and appropriate rental accommodation has taken some time, and it has now been determined by the corporation itself that there are no suitable buildings within the district and it is going to construct one.

The corporation therefore approached Petrotrin for a piece of land, and Petrotrin has given a commitment for the lease of a piece of land at Clarke Road, Penal, for the construction of permanent offices for the corporation. Petrotrin has also given permission for the use of its training room for a council meeting carded for March 8. So that not only is the ministry seeking to assist—it will be assisting the Corporation in the construction of this building—but the state agency, Petrotrin, is also assisting by making available its training room.

The fact of the matter is that all the places available for meeting were unsuitable and inadequate for many reasons. The council moved from place to place in its effort to obtain suitable accommodation and all the places were extremely inconvenient for a number of reasons. I will read to you some of the problems and perhaps Members would understand why the staff is reluctant to hold meetings in the Debe sub-office.

The meeting place in which the Member, I have to assume, would like the Chief Executive Officer and his staff to hold meetings, consists of an open shed which is affected by dust, noise, rain and heat; it is used for storage of tools; there are no adequate toilet facilities; it is an open building and there is no privacy, and the staff of the corporation is reluctant, therefore, to hold meetings in this open shed. The ministry, as I have pointed out, is assisting the corporation in obtaining the parcel of land owned by Petrotrin and in constructing the new building for the Penal/Debe Regional Corporation.

**Mr. Hosein:** Madam Speaker, I wonder if the Member would give way to a question for some clarification, please. He has indicated that the way to go is to build a new building. I merely want to ask him who is going to be responsible for funding that new building; the corporation or his ministry?

**Madam Speaker.** The way the Motion is framed I think what the Member is really seeking is, assuming that the building is going to be constructed, in the meantime what building will the Corporation use?

**Hon. C. Imbert:** Madam Speaker, I am coming to that, but I sought to explain the problems the Corporation has had, through no fault of its own, and the reluctance of the staff to hold meetings in this particular sub-office, and it is necessary to put that on the record. The fact of the matter is that Petrotrin has offered the use of its training room, so that the next meeting of the council on March 8, can be held, and the ministry is liaising with the corporation to identify suitable buildings for the holding of all future meetings until the construction of the new building is completed.

The point I have sought to make is that nothing could be further from the truth than the allegations made by the Member for Oropouche that representations have fallen on deaf ears, that we are doing nothing, that we are arbitrary and dictatorial, that we do not care about people, and we are seeking to eliminate the Penal/Debe Regional Corporation. These are figments of the Member's imagination.

I thank you, Madam Speaker for bearing with me while I developed my point. I am certain that you now understand—if you allow me the local parlance—where

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I was coming from. I give this House the assurance, that contrary to the misleading allegations of the Member for Oropouche, the ministry will assist the corporation to provide it with proper accommodation for all its future meetings, and therefore, there will be no longer any problem between the administrative staff and the council with regard to the attendance of meetings.

I thank you, Madam Speaker.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 6.50 p.m.*