

Leave of Absence

Thursday, May 28, 1992

SENATE

Thursday, May 28, 1992

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. Rev. Daniel Teelucksingh from today's sitting of the Senate.

PAPERS LAID

1. Report of the Auditor General on a comprehensive audit of the Post Office Savings Bank. [*The Minister of Planning and Development (Hon. Lenny Saith)*]
2. Report of the Auditor General on the accounts of Forres Park Limited (in voluntary liquidation) for the period March 1, 1986 to May 31, 1987 and for the years ended May 31, 1988, May 31, 1989, May 31, 1990 and May 31, 1991. [*Hon. L. Saith*]

ORAL ANSWERS TO QUESTIONS

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

**Booz, Allen, Hamilton Report
(Energy Sector)**

9. Could the Minister of Energy and Energy Industries provide the Senate with copies of the Booz, Allen and Hamilton Report on the Rationalization of the Energy Sector?

**Loan Contract/IADB
(Review of)**

10. Could the Minister of Energy and Energy Industries state whether the Government has any intention of reviewing or renegotiating the loan contract entered into between the Government of Trinidad and Tobago and the Inter-American Development Bank in respect of the upgrading and expansion of the Trintoc Refinery?

**Phoenix Park Gas Processors
Limited**

- 11.** Could the Minister of Energy and Energy Industries provide the Senate with copies of the relevant agreements establishing Phoenix Park Gas Processors Limited, a joint venture between Conoco, Pan West Construction Company and the National Gas Company?

The Minister of Energy and Energy Industries (Hon. Barry Barnes): Mr. President, Sen. Mark has graciously consented to allow the deferral of questions Nos. 9 to 11 to Tuesday, June 2, 1992.

Questions, by leave, deferred.

ORDER OF BUSINESS

The Minister of Planning and Development (Dr. The Hon. Lenny Saith): Mr. President, I seek leave of the Senate to move to Item 2 under Bills Second Reading "An Act to re-enact the Maxi-taxi Act, Chap. 48:53".

Leave granted.

MAXI-TAXI BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion): Mr. President, I beg to move that a bill to re-enact the Maxi-taxi Act, Chap. 48:53 be now read a second time.

On May 19, 1992, the hon. Justice Wills sitting in the High Court at Port-of-Spain declared the Maxi-taxi Act Chap 48:53 which is No. 48 of 1979 unconstitutional, null and void. The state proposes to appeal this judgment of the learned judge and to seek an urgent hearing of that appeal. In the meantime and pending the outcome of that judicial review procedure through the Court of Appeal, we are concerned about the adverse consequences in three major areas.

We are concerned about the adverse effect on the system of traffic management, including traffic congestion and the smooth flow of traffic, the provision of adequate public transportation to the travelling public in all areas of the country, and thirdly and most importantly, the safety and security of members of the general public who avail themselves of the use of maxi-taxis, to commute to and from work and school and generally about their daily business.

Before I look at the bill which is before this honourable Senate, I think it is important by way of background, that I refer to the original purpose for enacting the maxi-taxi legislation in 1979. I propose to take that course principally because this present bill is substantially the same as the Act of 1979. The difference which appears on the face of the bill is that we are seeking a specific constitutional majority in order to preserve this legislation from challenge, and that is as a consequence of the decision of Mr. Justice Wills.

I also wish to state that the fact that we have come this way is no concession on the part of the Government that the decision which we have appealed against is correct, but we thought that it was necessary to deal with the problems which we foresee as a consequence of that decision which was made earlier this month. The true purpose for the introduction of this piece of legislation is confined to ensuring that during the period of review through the courts, the travelling public is protected, particularly, as there is some doubt as to the applicability of insurance coverage to persons who use the larger maxi-taxis.

I should also say that during the 13 years of the life of the previous Act, it became apparent that there were some deficiencies. I want to inform this Senate that the hon. Minister of Works and Transport was in fact engaged in an exercise of review and intended to come to Parliament with a revised Maxi-taxi Bill which would have incorporated the changes which he had discussed with the relevant persons involved in the maxi-taxi operation.

I say that to indicate and signal to hon. Members that there will be an opportunity shortly to debate in full the Maxi-taxi Act when the proposed amendments are made by the Minister concerned. What we are really doing today is substantially re-enacting the original legislation with one major policy change and some minor amendments relating to the various penalties which are contained in the Act for offences contained therein.

1.40 p.m.

We are essentially in a holding pattern at this point to ensure as I said previously, that the public transport system remains in tact, that the livelihood of maxi-taxi operators is not jeopardized, and the safety and well-being of the travelling public is not affected by refusal on the part of insurance companies to settle insurance claims. If we focus on those considerations, I am sure that Members in this honourable House will have no difficulty in expediting the passage of this legislation in a circumstance where the national interest requires it

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as a matter of primary concern. I refer specifically to the interest of the ordinary man on the Clapham omnibus, as it is normally termed, or in our case, more appropriately, the Mayaro maxi-taxi.

The only significant departure is contained in clause 6(1)(b) of the bill and it is a provision which creates a new class of permit called an operator's permit. This type of permit will permit a person who himself is unable to purchase a maxi-taxi to nonetheless offer his services to a person who is so able. It therefore has two primary effects—it creates job opportunities for those persons and it affords the previous owner/operator the opportunity to maximize the use of his investment.

There is one other thing which flows from that and that is that regard is also being paid to the question of safety. Very often you find that maxi-taxi drivers, because of the heavy capital outlay and the heavy monthly instalments which they have to pay, work themselves to the extent of total physical fatigue, and therefore, are themselves a hazard to users of the road. Members of this honourable Senate will well know the recent spate of maxi-taxi accidents which have afflicted us here in this country. So that is the only substantial policy change which we have made in presenting this bill as a matter of urgency and given the national interest.

The minor amendments are contained in clauses 8(3), 9(2), 10 and 11(2). You will see on a review of those clauses that they impose penalties, all of which have been increased to act as a deterrent to the offences which they cover. It may be of some importance to refer to a couple of these amendments.

Clause 9(3) increases the penalty where a repossessor uses a maxi-taxi without a permit. That should not really present itself as a problem to the repossessors of maxi-taxis because clause 9(2) does provide for him to have written approval of the Authority in order to use the maxi-taxi. One can envisage a situation in which such a course may be necessary. The repossessor may be having difficulty in finding a purchaser and he may choose as a matter of course to seek approval in writing from the Authority to use the vehicle for a period of time while he finds a purchaser. So that, if he does not avail himself of the permission which is available by clause 9(2), we have increased the penalty there slightly.

Clause 10(2), which is the other increase, covers a situation where an owner/operator of a maxi-taxi uses it for commercial purposes. The fine has been increased substantially to \$5,000, because we are cognizant of the fact that maxi-taxi owners get special concessions in terms of duty, *et cetera*, and if one were to use it as a commercial vehicle, it would be an unfair advantage on persons who purchase light vehicles but for commercial purposes.

We have also removed in that clause 9(2), the provision for continuing offence, which we thought was unworkable, having regard to the offence itself, that is, using it as a commercial vehicle. We recognize that there will be some difficulties in monitoring when it is being used over a period of days, so to create a continuing offence in that clause, we thought was unnecessary.

So, Mr. President, those are the minor amendments—the changes in penalties, the major policy amendment being the operator's permit which we say will have two major benefits in terms of job creation and in terms of maximum use of the vehicle.

There is one other amendment which we thought necessary and this is to protect what we perceive to be a difficulty in terms of insurance coverage—whether or not the passengers in those vehicles are covered, and that amendment is clause 13 of the bill and relates to the Motor Vehicles and Road Traffic Act. The amendment to the Motor Vehicles and Road Traffic Act has been made out of an abundance of caution retroactive to April 21, 1982. The reason is that the Maxi-taxi Act of 1979 was amended in 1982 to provide for the larger types of maxi-taxis, and that is where the real concern lies. That clause provides, in effect, that maxi taxis of whatever weight, will now be considered Class 3 vehicles.

The problem here is that it is an offence to drive a vehicle where you do not have a licence within that class. The larger type maxi-taxis fall outside the class of the light vehicle maximum weight as contained in section 50 of the Motor Vehicles and Road Traffic Act, Chap. 48:50 where light motor vehicles are defined as including private motor cars, taxis with a tare weight not exceeding 2,270 kilograms, maxi-taxis and light goods vehicles not exceeding a maximum gross weight of 2,950 kilograms. That weight is exceeded by the larger maxi-taxis and there is some doubt and concern as to whether they fall within Class 3.

1.50 p. m.

The effect of that, is that if the drivers of those vehicles are not licensed, their insurance coverage will not be of any assistance to them or their passengers if there is an accident. We have thought it prudent to make this provision retroactive to 1982, the date of the introduction of the largest maxi-taxis, to ensure that claims occurring since that date would be met by the amendment.

Mr. President, that is the overview of why we on this side feel it necessary now to bring this bill and to urge Members on both sides of the Senate to give their full support to this measure, having regard to the national interest.

Sen. W. Mark: Before the Attorney General takes his seat. On a point of information, Sir. He said earlier that the Government proposes an appeal. Could he indicate to this Senate whether the appeal has been lodged and, if so, When? Or if the appeal has not been lodged, when does the Government intend to lodge it against this judgment?

Hon. K. Sobion: The appeal has not yet been lodged. It is hoped that the appeal will be lodged this week, perhaps tomorrow or early next week, and an application for an early hearing will be made as soon as the appeal is lodged.

Mr. President, I beg to move.

Question proposed.

Mr. President: I know I can always look forward to the co-operation of Members on both sides of the Senate in complying with the Standing Orders. But in view of the particular circumstances that have given rise to the debate today, I think it would be useful to remind Members of the provisions of Standing Order 35, sub-paragraphs (1), (2) and (8) Sub-paragraph (1) says:

“...debate upon any motion, Bill or amendment shall be relevant to such motion, Bill or amendment, and a Senator shall confine his observations to the subject under discussion.”

Sub-paragraph (2) says:

“Reference shall not be made to any matter on which a judicial decision is pending, in such a way as might, in the opinion of the Chair, prejudice the interests of parties thereto.”

Sub-paragraph (8) says:

“The conduct of (a number of people, including) Judges or other persons engaged in the administration of justice shall not be raised except upon a substantive motion moved for that purpose...”

I am sure Members will continue to comply with these Standing Orders.

Sen. Muntaz Hosein: Mr. President, I seek your leave to extend sympathies from this side of the House to Minister Kuei Tung on the death of his father. We hope that his period of bereavement will be short.

The bill before us, Sir, comes on the heels, as was explained by the hon. Minister, of revision of this bill coming 13 years after the bill was enacted. Again,

we on this side of the Senate have the unpleasant duty of pointing out to the Government that we are bombarded with bills coming to this Senate after the fact. We are asked, again, to give assent to this bill retroactively.

The Minister talked about this bill easing the traffic congestion on our roads. I have great difficulty in understanding how this will take place. As a matter of fact, the Minister did not make a case, so I am yet to be convinced. I see the hon. Minister of Works is with us and I welcome him. Perhaps in his contribution we shall hear how this bill will alleviate the traffic congestion on the roads.

I also took note that the hon. Minister mentioned that this bill will make transportation more adequate. That was not explained, and I am hoping that the hon. Minister of Works will explain to this Senate how this bill impacts on the adequate transportation of the public.

Thirdly, the Minister explained again today, that this bill will make travelling safer and more secure and that, too, no case was made out by the very learned Attorney General, and since he did not do it, I feel pretty sure that he has left that in the hands of the Minister of Works. Perhaps further down in the debate today, we are likely to get answers to these questions.

Suffice it to say, that I am not happy with any Minister—more so, the Attorney General—introducing legislation and not making a case for it. I believe he is too good a lawyer to give us this kind of slipshod introduction. I think it is right to say that it is contemptuous of the people sitting in this Parliament, and I would hope that in future the Attorney General will be more careful and will be more adequate in his explanations in building a case for legislation.

We do not expect that this type of legislation will come to this Senate in such a piecemeal fashion since this Government, the one before this and the one before that did not enunciate any transportation policy, and there is a crying need in this country for a transportation policy. Perhaps the Minister of Works is working on it and he will tell us that he is doing so and he will also give us some hints on how he is proposing to handle the transportation policy of the Government. We on this side of the Senate should like to know what the Government's transportation policy is, because only by having a transportation policy can we see how this bill fits into that.

A perusal of this bill will show that it has not addressed the needs of people living in remote areas who are having transportation hardships. Could it not be,

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that we can use the maxi-taxis with a subsidy to alleviate the hardships and problems suffered by people living in remote areas where the PTSC and other taxis find it uneconomical to ply? I hope the hon. Minister will take note of that and address it.

If we look at the cost of transportation, we would see—and with your leave, Sir, I quote from the *Trinidad and Tobago Gazette (Extraordinary)* No. 129, dated Thursday, May 14, 1992. If we look at that we are going to see that from 1988 to 1989, the cost of transportation went up by 113.75 per cent. If we look further down, we would see that from January to April—in the space of only four months—transportation went up a further 108 per cent. As a matter of fact, it is reflected particularly in the month of April, 1992.

Mr. President, you will recall that I gave clear warning to this Senate and to the Minister of Finance that his petroleum increase is going to impact heavily on all sectors of the economy. One can see how it has impacted on transportation. Perhaps the Minister of Works will show us how he intends to reduce this.

This bill talks about the Administering Authority and it says under 3 (1):

“The Administering Authority shall be charged with the responsibility for implementing and regulating the system.”

Since we hear that this bill is substantially the same as the former Act and since we are not told that there will be a change in the Administering Authority, one gets the impression that the Government is happy with the present Administering Authority. If that is the case, I feel that we should look at the performance of this Authority and see whether it did its job properly and, if not, why not.

I make particular reference to the Fifth Schedule of the Maxi-taxi Regulations—this is the old Act, Sir, and since we have not been given any new regulations, I would assume that the old regulations will stand, and therefore, we look to see how the Administering Authority did with regard to this. If we look at (b) we would see:

“adequate luggage compartment approved by the Administering Authority for personal luggage of passengers.”

Mr. President, I do not know if you have ever been into one of these maxi-taxis or have had a chance to have a good look at them. But if you do, Sir, you

would see that there is no space in any of these maxi-taxis—at least not the ones that I saw—for luggage. If, for example, you were going to the airport and you had anything other than a brief-case, perhaps a suitcase, there is no way that you could get into a maxi-taxi and occupy a seat with space for your luggage. It seems to me that this part of the Fifth Schedule was overlooked by the Authority or perhaps they were not doing their job properly.

Let me also look at (c) which states:

“a clear passage-way for movement of passengers.”

Again, if you go into these maxi-taxis, you would see that there are jump seats in between the passageways, thereby preventing a clear passageway for people to pass in the case of emergency and otherwise. As a matter of fact, Mr. President, if you were a bit on the old side—which you are not—and perhaps a little on the feeble side, there is no way that you can go in and out of these maxi-taxis comfortably. Even young people have trouble getting in and out. So here again it would seem that the Administering Authority either overlooked this or perhaps did not do its job properly.

Then we could go to paragraph (d), Sir:

“... no excess folding seats.”

I have just given you an idea of what happens in these maxi-taxis; folding seats are the order of the day; they have them. Therefore, again, it seems to me that the Administering Authority is either overlooking this or not doing its job properly.

Let us go to (e). Here, the Minister in introducing the bill, talks about safety and security. Paragraph (e) here says:

“both its left and rear exit doors opening from both the inside and the outside.”

This is a very serious matter; this involves the safety of the passengers. One need not go too far back, just a few months ago a woman died in one of these maxi-taxis because there was an accident and she could not get out. A look at these maxi-taxis will show that some of them have doors at the rear, but these doors are locked from the outside and there is no way you can get out. There are seats jamming up against the door so even if you could, there is no way you could get out. So it is a safety hazard and some of the maxi-taxis have no doors at all at the back. You have an even worse problem if you are trapped in one of these

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vehicles; there is no way that you could get out. With great difficulty you may be able, depending on the type of accident, to get out through one of the side windows if you are slim and agile.

What is stated here is certainly not being followed. The exit doors do not open from the inside and in many instances the door, the one on the side of the vehicle, is left open while the taxis are travelling with a conductor sitting or standing in many instances hailing out and stopping the driver, saying, look, a passenger on the side. Of course, Sir, you will understand the problem we are having here with safety. Again, I must point out that the Administering Authority is either not doing its job or overlooking this.

We go to (h), which says:

“room for not more than two passengers to be seated in the front seat with the driver.”

While this may be very accurate, we have a problem here which needs to be attended to. When people sit next to the driver of these vehicles they distract him and he is liable to have more accidents. This possibly gives rise to the number of accidents we are having.

I ask the Minister that this particular area be looked at. There should not be any passengers sitting next to the driver. If you look at buses abroad, you would see that they do not have seats next to the driver; the driver sits alone; therefore he can concentrate on the road.

Sometimes, it is extremely difficult, and today we have some passengers in their micro-minis and you can imagine what the position would be if a beautiful lady with a micro-mini is sitting next to the driver's seat. I can tell you, Sir, there is no way he can really concentrate on the job at hand. Therefore, the passengers are at risk. I should like to see that part of this schedule revised so as not to allow people to sit next to the driver.

We go further down to (n), which says:

“its destination sign fitted in a conspicuous position on the left front windshield of the vehicle.”

In many instances this is not adhered to. Many of them do not carry any signs at all as to where they are travelling. So the possibility is that people who may not observe and do not know which taxi stand they may have gone to, may stop the

wrong taxi driver and end up in San Fernando instead of Arima. I think that this provision here cries out for some sort of administering.

If you should look at this, you would see from this schedule that the Administering Authority is either not doing its job properly—and I cannot see it any other way. I tried to make it appear that they may have overlooked it, but if they have overlooked all of these in the Fifth Schedule, they have no business in the position they are in. Therefore, I would respectfully submit to the Minister that he considers very seriously those people whom he might want to put in the new Administering Authority. I say new, Sir, because I feel pretty sure, having made these points, the Minister has a duty now to have a new Administering Authority.

Mr. President, I go to clause 4 (1) which says that:

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

I recommend to the Minister, that representatives of the Maxi-taxi Association be retained on this Advisory Committee. I know that the old one has it and I hope that it will not be overlooked and that it will continue in the same vein because I feel that these people have a lot to contribute to that particular committee.

I should also like to look at clause 5(1)(c) which states:

“The availability of the vehicle as well as its spare parts in Trinidad and Tobago.”

My information is that there is a lot of difficulty getting spare parts for the vehicles now being used as maxi-taxis. Perhaps, again, the Authority may have overlooked this or perhaps there is another reason which I do not know. But if you cannot get spare parts, you have difficulty in running an efficient transport system, and therefore, we ought to look at the availability of spare parts.

Spare parts and the cost of repairs are very expensive. If it is that we are looking to get a transport system that is not only adequate but is also inexpensive, we need to augment the provision of spare parts. Not so long ago, you could have imported complete engines and gear boxes into this country at the same rate of duty as spare parts, but the Government saw it fit to raise the duty on this. I think that perhaps they have overlooked this—I think they have made a mistake and they need to fix that.

Sometimes you can buy a used engine for half the price or one-third the price of what it would cost you to overhaul your old engine. So that it is a savings on

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the part of the poor man. I can only assume here, since we have not got adequate information on this, that the only beneficiaries that will come from this are the big car dealers, the ones who do not sell used engines, and perhaps we should not be supporting those people at the expense of the poor man. I think we need to look at that and I hope that the Minister will do so.

May I go on to suggest that under 5 (1) we should go with one subparagraph more, instead of stopping at (e), we should go to (f). I feel we should have designated maxi-taxis sheltered—and I emphasize the word “sheltered”—stops. That will help in relieving the congestion which the Minister in introducing his bill mentioned, although he did not have the clause here. I wish that he would put in such a subparagraph.

When you have these large vehicles, stopping all over, stop and start, stop and start, you get more congestion on the roads. You also get more accidents. The size of these vehicles; if you are driving, Mr. President—and these fellows have to hustle. I understand why; I have no problem with that because this country has become a place of hustle, anyway. We all have to hustle—they cut right in front of you and stop abruptly for that passenger. You can understand the problem for the other drivers. But if we have sheltered designated stops, as we have on the Priority Bus Route, we would do two things: We would alleviate the congestion on the roads, we would have fewer accidents; and more importantly, the travelling public would have a sheltered area where they can wait for their maxi-taxi. I think this is very important and I hope that the Minister will look at that.

As a matter of fact, I should like to refer to what I like to call the Saith Report. The Saith Report is a study done by a committee headed by our hon. Minister, and this report was completed in 1979. Page 7 of that Report, section III (8) (b), this is how it reads:

“The provision of special loading and off-loading areas in urban areas and along the major routes for use by regular and maxi-taxis.”

I am very happy to know that the hon. Minister is here and since he has written this and it has been part of his committee, I shall have no difficulty in getting him to put in these sheltered stops.

Mr. President, may I go on to clause 6, and that says:

“(1) A person who is desirous of—

- (a) owning and operating a maxi-taxi, or
 - (b) operating a maxi-taxi, may apply on the prescribed form to the Authority for a permit to do so.
- (2) An applicant referred to in subsection (1) shall—
- (a) be the holder of a valid taxi driver's licence and badge;
 - (b) attached to his application a certificate of good character.”

Now, I submit that is not sufficient. The behaviour of many of our taxi drivers, maxi and otherwise, leaves much to be desired. It suggests to me, that some training ought to be done, because taxi drivers all over the world perform a very important duty. I feel, similarly here, that our maxi-taxi drivers, and regular taxi drivers, are performing a valuable and important duty, but we need to train them for this. We need to go beyond a licence and a good character certificate. We need to train them and have them pass an examination before they can become taxi drivers.

2.20 p.m.

This bill is silent on the issue of conductors. I know that, perhaps, in 1979 or 1982 when the original bill was written, it may not have been envisaged at that time that there would be conductors, but from then to now, is far different. We have many conductors on these maxi-taxis—and for very good reasons. Because of the number of seats, and so forth, the driver cannot handle all of it. What we find is that the conductors are also touts and they do not behave in the manner that they should.

Most of the time these conductors/touts are not properly dressed; sometimes they are without shirt or in a vest alone and that type of thing, and their behaviour is not one that we would want to associate our maxi-taxi or taxi industry. I feel, that both the driver and the conductor ought to be given some training. I do not believe that it is their fault, I think they are just going along with whatever is the bare minimum requirement for driving a taxi. We should go beyond that. I suggest that the Minister should look at that carefully to see if he can make some changes.

Mr. President, under clause 7 (1):

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

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- (2) A permit shall be subject to such conditions as may be prescribed and breach of any such conditions may result in its revocation."

Two things here, Mr. President. We have to look at how people get taxi badges. We would see that most people get their badges in the normal way—they will learn to drive, take a test and pass it, and they would get a taxi driver's badge. But, Sir, down at the Licensing Office, we have a major problem which has been going on for years and years, and I know that the Government is aware of this. I am a bit at a loss to understand why it has not, perhaps, done something about it.

Mr. President, do you know that as long as you have a driver's licence, you can be a driving instructor? That is the present position, which I think is a shame. How can you have someone who is, perhaps, 18, 19, 20 years or so, without any experience, teaching other people to drive? This is what obtains. I think that there should be some kind of examination for driving instructors. We should not allow people without experience and knowledge to become driving instructors. Perhaps, that is the reason for so many road deaths—and we have a tremendous number of them. Permit me, Sir, to give these figures:

Year	No. of fatal accidents
1988	124
1991	140

The total number of accidents in 1991 was 22,674.

Year	No. of serious accidents
1988	563
1991	682

So you will see, Mr. President, that all of these things are linked to the deaths and carnage on our roads. If we are to stop this, it is not simply by putting policemen to set up speed traps. That is not enough. We need to teach, train, and make certain that the people we put on the roads are qualified to drive.

Mr. President, if you wanted to get a driver's licence and you did not want to take the test, all you have to do is pay \$1,000 to an unscrupulous driving instructor and it will be delivered to your house. This has been happening for a very long time. The kind of people we have teaching our children and our wives to drive leaves much to be desired. Unless we are able to control or regulate that, we cannot bring road deaths down to an acceptable level. Road deaths, perhaps, you will say, Sir, can never be acceptable, but it will not be as bad as it is today.

The Minister talked about insurance coverage. These instructors, who are not qualified, are using vehicles to teach people to drive and they are not covering those people by insurance. Again, you have that same problem crying out for action, where unsuspecting students are going to people to learn to drive and not knowing that they are not covered in that car, so that if an accident should occur, they have nothing to get. I am very glad that the Attorney General and also the Minister of National Security are here. I hope that they will look into this matter and rectify it.

The other matter that stems from clause 7 is the question of the right of appeal. I do not see in this bill any rights for persons who may be dissatisfied with the Authority. If their application goes to the Authority and they feel aggrieved, for one reason or another they feel that they were not dealt with properly, whom do they go to?

Hon. Senator: The court.

Sen. Hosen: My Friend at the back of me tells me that they will have to go to court. That may be so, but that raises another Jack Spaniard's nest. If you go to court, first you have to have money, and many people may not have the kind of money because the good lawyers charge plenty money. In order to get redress, you have to have the money. When you go to court, the backlog, as stated by the hon. Attorney General, is so bad that it will take donkey's years before you can get redress in the courts. I feel we should try to avoid that by instituting some form of appeal. I think natural justice demands that anyone who is not satisfied with some area should have the right of appeal, and a right of appeal that does not bring an onerous burden on that person, because we are dealing here with people in all different walks of life, and some of them might be very poor.

Mr. President, I would now like to go to clause 12 (1) which says:

"The Authority may with the approval of the Minister make such Regulations as it considers necessary for the operation of this Act and in particular may make Regulations—"

I have been working on the assumption that the regulations which I read from might be the regulations, but we do not know. We have not been told that the regulations are going to be this, or the regulations will come at another time, but we have been asked here to take a very important decision which requires a three-fifths majority which means we are interfering with the Constitution of the

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country, and we do not know what these regulations will contain. It is very difficult for us to vote for a bill when the meat of the bill is in the regulations, and we have no idea of what those regulations contain. I think that is a major problem we have here and I cannot understand why we are not provided with these regulations in clear and unambiguous terms.

2.30 p.m.

It further goes on to say (a) "prescribing all that is required by this Act to be prescribed". So you see how important those regulations are; that is the meat of it. Now (b) "governing the criteria by which a permit to operate a maxi-taxi shall be issued". The criteria, very important. We go to (f) "restricting the number of maxi-taxis to be allocated to a successful applicant", and this is an area about which I am very sensitive.

If we do not know how many maxi-taxis will be given to a successful applicant, are we not setting up ourselves, perhaps, for a monopoly? Am I going to be voting for a bill here that is likely to be monopolized by person a, b, or c? Mr. President, I have much difficulty with that. I feel the Minister should specify how many maxi-taxis he is going to allow per person. We must know that, and, in his reply he might tell us. We need to know that.

Sir, we should not stop at (f) or (g), we should go on. The Regulations, Sir, I want to submit to the Minister, should contain the following standards for drivers and conductors: code of dress and their behaviour; I think we should have inspectors to oversee the regulations, because clearly, as I mentioned a short while ago, these regulations were not overseen or the people were incompetent. I believe if we have overseers this would also provide a few more jobs. Music level. Mr. President, this is a big problem with maxi-taxis. The music levels are not regulated and not enforced; and Mr. President, I feel that should be looked into and the Minister, perhaps, will include it in his Regulations.

In some of these maxi-taxis you cannot see through the glass. I know there is a law that says that you should not tint beyond a particular amount, but that has not been adhered to. It has not been enforced and, perhaps, the Minister of National Security will see to it that some of these things are enforced.

The question of touts, Mr. President. You only have to go to Independence Square to see what takes place there at the maxi-taxi stand. If you only attempt to walk anywhere near the direction of a maxi-taxi, they grab you and throw you inside. And they always want only one passenger—"One more to go", and Mr. President they do not have anybody in the maxi-taxi. Sometimes they have only one.

We have another problem, Mr. President. There is a protection racket going on at these stands and if the maxi-taxi drivers do not pay up they cannot get their taxis to the front of the line, which is the norm. They are ignored and have to remain at the back. These “badjohns” make sure that if you do not pay them you cannot get to the front, so the Minister of National Security might want to look into that—the question of safety and making certain that everything is fair and to avoid touting. I know many people, especially women, have great difficulty in saying “I am going to Chaguanas”, or wherever it might be. They are afraid. Not so long ago I heard the story of a lady who was travelling to Chaguanas but her handbag went to Arima, because one tout grabbed the handbag and went to the Arima maxi-taxi stand and she went into the other maxi-taxi. So you see what is happening. It does not only happen on airlines. It happens in maxi-taxis as well, except that airlines do not have that kind of touting. So I hope the Minister will look into that.

The question of the age limit for drivers and conductors. As far as I understand, we do not have an age limit and it is very difficult for someone 18 or 19 to be responsible for the lives of 20, 25 or 30 people in a maxi-taxi. I have great love for young people, but I believe that we have to be prudent. The insurance companies have special coverage for people under 25 years because the majority of accidents, the statistics show, are caused by people under 25 years of age. This is no attack on young people but we must call a spade a spade and we must take steps to ensure that the travelling public are not put in a position where their safety is threatened by people who are too young. So I am suggesting, that we look at a minimum age and, perhaps, that minimum age should be 25 for both the drivers as well as the conductors.

Environment protection. I know that we are a young nation and I know environment issues are matters that have not come to our attention until only recently. Within the last five years or so we have been looking a little more at protection of the environment. We have many diesel vehicles in this country, Sir, and if you drive behind one of them you will get an idea of the pollution emanating from these vehicles. It is a cloud of black smoke and “trouble take you” if you cannot hold back and wait before proceeding. So perhaps the time has come, that we should ask the Minister to make provision for catalytic converters for diesel engines to protect our environment.

We go to the question of stand. Stands for maxi-taxis are grossly inadequate. The one that comes clearly to mind is the one on Independence Square where both

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taxis plying Port of Spain to Arima and Port of Spain to Chaguanas do not have a proper stand. As a result, the place is “jam-packed” and many pickpockets and petty thieves ply that area. It is so easy for them to pick people's pockets and snatch their handbags and so forth. So I feel, that we have two parks opposite the Cathedral—the one between George and Charlotte Streets and between Charlotte and Henry Streets. Those are not being used now, Sir, they are empty. Why not allow these taxis to use them as stands? We would make it far more difficult for these dubious characters to operate in these taxi stands and I hope, that the Minister will look into that.

Clause 12(2)—“Regulations made under subsection (1) shall be subject to negative resolution of Parliament.” Mr. President, I have a problem with the question of negative resolution. Why not an affirmative resolution? Since we do not have the benefit of the regulations in front of us, we are not aware of what is going to be contained in those regulations; and they are so important. I feel that this should be amended to include an affirmative resolution.

Mr. President, I hope on the next occasion that a bill comes to this Senate, we shall not be asked to do it retroactively; and I hope, Sir, that we will have proper explanations and all the regulations before us, so that we would be in a better position to deliberate on the bill and, perhaps, come out with the best possible decision. I thank you.

2.40 p.m.

Sen. Martin Daly: Mr. President, like Sen. Hosein, and I suspect most people who use the roads of this country, I have grave misgivings about the way in which many maxi-taxis are operating. I am quite sure that there is going to be much thunder in the course of the afternoon directed against those who, I am sure, are a small minority; who abuse women, abuse other motorists, whose vehicles can be heard quarter of a mile away before they come alongside you. Two mornings ago, driving up the Diego Martin Main Road, I heard a maxi-taxi for at least a minute and a half before I saw it, and my windows were vibrating for the same period. So I have all those misgivings. But I do not think that is what we are here for today. I believe that on this occasion praises are due to the Attorney General. You see, law-making is very dear to my heart and when I see it being done maturely and promptly, I believe praises are due.

Why we have been brought here today, as I understand it, is simply this. The Government found itself faced with a legal crisis and a potential transportation

crisis, because a High Court judge struck down the Maxi-taxi Act as unconstitutional. As I understand it, when that takes place, the Act, for practical purposes, is as good as though it is torn up. So from the date of the judgment, unless something in the nature of a stay or other arrangements are made, there is simply no law governing maxi-taxis, except, really, the law of the street.

Faced with that crisis, as I understand it, what the Attorney General desires—and he said so in his opening remarks—is to have a holding operation simply by bringing back substantially the same legislation that was struck down so that the present maxi-taxi system and the way it is operated by the authorities, will be preserved, notwithstanding the judge's ruling. I think that is a responsible approach. He has indicated that at a future date we will be asked to consider other amendments to this new Act.

I think it is very important that the public understand what is taking place here, because I suspect there is a certain amount of confusion. We are here to re-enact the Maxi-taxi Act, simply because the judge said, rightly or wrongly, that the present Act is bad because it was passed by a simple majority as opposed to a three-fifths majority. I, too, have read the judgment and there is no other criticism of the Act contained in the judgment. That is why I support the Attorney General in coming for a holding operation by bringing back the Act and having it passed by the requisite majority so that the authorities that regulate the maxi-taxi business can get on with their work.

He has my support for approaching the matter in this way. It is far more productive than waiting on the outcome of an appeal. I note that the Attorney General said that he would try to get a speedy or urgent appeal. Well this is neither the time nor the place to spend time in explaining, or reminding Members of this House and the wider public, that a speedy appeal in our jurisdiction may be a contradiction in terms.

So faced with that situation, I think the Attorney General deserves support on this matter. He is simply putting back the system that was there before, in order to avoid chaos. He has told us that other legislation will be coming about maxi-taxis. I understand that to mean that if this new Act is enacted, in due course the Government will come back with amendments to this Act and with regulations made under this new Act. Because with the fall of the original Act, the regulations have also fallen. So I think that the Attorney General's efforts are commendable.

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There is something else which has appeared in this bill on which I should like to comment. Reference has been made to the retroactive operation of the legislation. I should like, for what it is worth, to assure Members that on a careful reading of this bill and having listened to the Attorney General, as I understand it, there is only one section that is intended to have retroactive operation. The bill as a whole is putting back what was there before, because for technical reasons, it had not been properly passed. Section 13 is to have retroactive operation and it has been explained by the Attorney General that the date, 1982, has been chosen because that is the date on which the larger maxi-taxis came into operation, and from that date doubts arose as to whether they were properly licensed under the provisions of the Motor Vehicles and Road Traffic Act. If they are not properly licensed, then the insurance coverage would be bad. I am quite certain that this is a proper use of retrospective legislation, because without it, someone may be injured in an accident—the all too frequent accidents that these maxi-taxis have—and ultimately whatever insurance that they may be able to get the benefit of, will be avoided by the fact that the vehicle was not properly licensed.

So today, at any rate, the Attorney General has scored, not one, but two points with me. Because he has taken the trouble, not only to bring back the original Act, but at the same time also to rectify something else that is serious. So on the assumption that the Government mean what they say and that they will bring back this Act, if and when it is passed, for a further look and fresher amendments, I accept that assurance and on that basis, I will support this bill. I do not think this is a matter that should be the subject of any trade-off, or that one should exact anything in exchange. I do not think that this is that type of legislation. I think this is legislation that is designed to meet a legal crisis.

In case it is thought that I am giving completely uncritical support to this legislation, may I say that I hope that this is a start of a new approach to legal crises in this country. Let me now, having said something nice about this legislation, suggest to the Attorney General that if we are now going to meet legal crises in this country, responsibly and promptly, he must do a few other things besides bringing the appropriate legislation quickly. He must start looking at the proper use of commissions of inquiry. He and his Government must start trying to make commissions of inquiry what they are supposed to be, that is to say, short, sharp, swift and, of necessity sometimes, brutal investigation of an outrage. Perhaps he will consider reviving them, giving them a good name again by having short, sharp, swift and if necessary, brutal inquiry into the distressing deaths at St.

Ann's Hospital. That too would be good law-making and good use of the Attorney General's Office.

2.50 p.m.

Mr. President, I note that you read a certain Standing Order so I shall say no more about that but I can assure everyone that the tinted windows, the loud music, the harassment of women is no greater or no lesser an outrage than the unexplained deaths of the people at St. Ann's. That would be a useful approach to law-making. I also hope that the Attorney General will reward the trust of my colleagues who like me, will support this bill with his assurances that other things are to be done by making sure that the licensing officers continue day in, day out, night in, night out to stop those maxi-taxis from doing what any right thinking member of the public would consider offensive. I have seen them doing it in the city. But as far as I see, it is done sporadically.

Pending new regulations, if there are infringements of the Motor Vehicle's Act, I would ask the Attorney General, and the relevant Minister for the sake of us all, to ensure that it is a priority item with the licensing officers. I stress that it is a small minority but there really are some quite obscene vehicles on the road; the windows are not tinted, they are jet black. You simply cannot see whether there is man or beast in those vehicles and I think that is quite wrong. I should like those of us who support this bill to be given that kind of reward to make sure that the vigilance of the licensing officers is continued.

I should also like to say something about the regulations that are likely to be made in the future. I think it is very important that the Attorney General and the relevant Minister listen carefully to the thunder that I am sure is coming. I am going to confine myself to the more technical aspects of this legislation but, I think it is very important that among whatever amendments the Government are considering, they consider medical examinations and a medical report as a pre-requisite for the granting of a maxi-taxi licence. It think it is very important that, that be considered because when we see some of these horrific accidents we would have to be living in an ivory tower not to have our suspicion as to what condition the driver might have been in at the relevant time. That is something I should like to see in any proposed regulations.

As far as I am concerned, I have not been asked to come here today to debate transportation policy or to complain about the early coming of this bill. We have come here today to rectify a crisis and I hope as I have said, this is the start of a

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new and more urgent approach to matters of law-making. There will be other actions, I am sure, on which I shall be able to express my strongly held views about what is required to make law and justice in this country better received than it is now by the man on the Priority Bus Route who is in fact the local equivalent of the man on the Clapham-omnibus.

So against that background I will support the quick passage of this bill and I have given the Attorney General notice of a certain amendment I may be seeking. He has given me his preliminary views about it but I will not detain Members because I know that everyone wants to have something to say about how these maxi-taxis are operated.

I am pleased to see that the Parliament could be assembled so quickly after a judgment in order to deal with what I have described as a legal crisis. I think it is also important to understand that, because there seems to be some fear that this bill in some way is interfering with the judicial process. I cannot see that it is; the appeal can continue and other persons who have litigation about the old bill, their rights are not being taken away retrospectively. Really, this is not strictly speaking, a piece of retrospective legislation. It is a normal piece of legislation in which only one section has been chosen for what I have suggested is good reason to be made retrospective, so no one need be concerned that this bill somehow is really a secret process or a trick designed to do the litigant who won the case, out of his rights or to any other litigant who has accrued rights under the old legislation.

Really, you know it is sad that there is so much suspicion about the speed with which the Government is bringing this legislation. It is a sad commentary on our country and it shows that for so long we have allowed legal matters and legal crises to wend their way for ever and ever and do not take in any kind of proactive action that people suddenly say, what is all this? Why is there all this hurry? There is every good reason for hurry. But for so long we have done nothing that people have these ill-founded suspicions.

Mr. President, I will support this bill with the reasons and the considerations which I have offered to this honourable Senate. Thank you.

Sen. Carol Mahadeo: Thank you. Mr. President, I am not trying to be at all witty but listening to my colleagues, Sen. Hosein and Sen. Daly, I am wondering whether when you hear me you will be thinking that I have sat in with either of them yesterday afternoon or last night and worked out my own text because

almost all the points that they have touched upon, are what I am going to be rehashing so you will pardon me if I sound much like the old school teacher.

We are here considering the re-enactment of the Maxi-taxi Act 48:53, which was circulated to us on Tuesday afternoon with an explanatory note. I am now speaking from the explanatory note which is not part of the bill, but it does say it differs from the Act which we are now going to be looking at, in two material ways particularly, namely, a special three-fifths majority of votes is provided to ensure, as the hon. Attorney General mentioned, against any possible constitutional challenge that human rights have been infringed and, secondly, provision is made for an additional category of permit to be issued, that of a permit to operate a maxi-taxi without being the owner which is the present situation—that you must be the owner/driver. The holder of such a permit would be entitled to operate any maxi-taxi but would be subject to existing restrictions relating to the zoning of maxi-taxis.

3.00 p.m.

As I see it, with every right enshrined under the law, however human and fundamental it may be, the operative word in this context is “fundamental”. Is the right so all encompassing that it strikes deep to the very root of the operation of the individual? If it is, then one would be within one’s bounds to pursue that breach in order to have it rectified. Now I am still speaking about the two issues, breaching the fundamental human rights of a person and secondly having this clause of owner operated varied to include operator only to have a permit.

The second provision is for the additional class of permit, class 3, whereby the non-owner would now be entitled to operate any maxi-taxi, again subject to the existing restrictions and zoning of these vehicles. While this is a very laudable provision, ensuring that a wider spectrum of persons are able to get employment, again, the infringement of fundamental human rights of movement, to operate on any route he or she desires could be raised, if he or she is restricted to the zoning system. How fundamental is this?

Here, I support the zoning system. To lift that would create mass chaos and internal warfare between owners and operators who have grown accustomed, over the years, to behaving as if the band colour for each zone, denoting the zone is each one's particular domain and no strangers are allowed in. I do not have to go back to Sen. Hosein's explanation when he says that one lady's handbag was left in the maxi-taxi going to Arima, while she found herself in Chaguanas. This is to show you the sort of thing which continues to exist.

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The Licensing Authority has been charged under section 4 of the Act as it stands, with the responsibility to determine major and very vital aspects of suitability of vehicles to be used as maxi-taxis and these are public service vehicles which accommodate, as the Attorney General rightly says, up to 25 passengers, these are the larger vehicles. Certain criteria have been spelt out at (a), the safety aspect—again, as I said, I am rehashing, but it can bear repetition. This is crucial to the life of occupants or passengers in these vehicles.

I am happy to see at least someone sitting in the wings who is from the Licensing Authority. Is it? Thank you very much. Last week Friday, in a certain district court, I sat with horror as I listened to a licensing officer. I must say that I commend the licensing officers operating in the Eastern county; they have been very astute, vigilant and committed and I want the Licensing Department to hear this, because from 5.00 a.m. they can be seen on the roadways stopping vehicles and checking them. I congratulate them for their commitment to the country in this regard. Here was this licensing officer testifying in open court about the driver of a maxi-taxi.

You know there are 11-seater and 12-seater. Sen. Hosein had mentioned these two little folding seats that they are asked to take off, but actually, the Licensing Department does not have very much control after they have been inspected and sent out on the roads, unless they are brought back in when they violate the laws on the road. They are brought back in every year for inspection, so the moment they are cleared after their inspection for the first year, those little folding seats are attached again and the operators are able to use them with impunity.

What happened is that this officer testified that he held up a 12-seater maxi-taxi plying its route along a certain street in the area. The vehicle was licensed for 12 passengers, but lo and behold, when he stopped it and the doors were opened, there were 20 passengers, eight extra. Some were sitting on the laps of others who were seated on seats, and some were sitting on the floor. These eight people were all teenaged boys and girls, students of a secondary school.

This ties in now with proper insurance coverage which the two previous speakers and also the Attorney General spoke about. This shows you the blatant case of overloading and this was one instance. How many instances are there every day on the road of this type of thing? So that when it goes back again—and it is inextricably tied up with the regulation so that I have to refer to some of the regulations although they are not before us, but these clauses in the Act proper are

tied in with certain regulations to which I must refer, if we are to make ourselves clear and to the point.

They are telling you about tare and weight *et cetera*, and you are going on to class 3 regardless of these criteria. What is going to happen here? Will that 25-seater maxi-taxi be classed as class 3 as the little 11 or 12-seater maxi-taxi and carry the same class 3 with it? You see these smaller vehicles and even the larger ones can at the moment, without the proper legislation to tie them in and restrict them, operate with impunity on the roads.

No wonder between September and December 1991—and again I am speaking about something which has happened and of which I have the experience—no less than seven accidents occurred between Arima and Sangre Grande between maxi-taxis and other vehicles, and between maxi-taxi and maxi-taxi causing the loss of lives in at least four of those accidents. All the lives that were lost happened to be those of school children at the secondary school level. Somehow the drivers managed to escape either unhurt or not seriously hurt and so the carnage on our roads will continue because they are free to operate; they know how.

This brings me to another aspect of suitability which is again tied in with (b) in the regulations referred to by a previous speaker, the convenience and comfort of passengers. How can passengers be comfortable when they are squeezed in and squashed between narrow spaces separating seats. For instance, here is one person sitting here, there are two people at the time and the space between the back seat there and the other seat behind it is so narrow, that somebody plump like me might hardly be able to sit in far less to get my handbag or my legs in properly.

3.10 p.m.

This is a difficulty, Sir—the availability of vehicles and spare parts in Trinidad and Tobago. This will certainly give rise to more employment and greatly reduced cost of foreign assembled vehicles. This is a very great prospect, if that could be looked into further. That is under (c).

Then (d) of the criteria—facilities available for local assembly. We do have a number of local assembly plants and they are quite capable of handling this type of operation, and it would also generate quite a bit of employment.

Under (e), there is "such specifications of vehicles as may be prescribed". Here I would advocate, instead of the yearly inspection that the Licensing Department undertake for testing public service vehicles as obtains at the present

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time, that a more comprehensive and speedy method be adopted, maybe with additional staff.

The Hon. Minister of Works might be able to look at that to see whether O&M could give him additional staff. I understand that you have to put in your application in June of the previous year if you are to get your vehicle tested in the next year. Many people hide under that before the courts and say, "Well, I paid for my inspection since last year June and it is now April or May this year and still I have not gotten my vehicle inspected. I had so many things to do, so I could not pay my licence and so I owe Government \$2,665 in licence compensation. I had no control over when I would get inspected".

I am advocating and I would recommend very humbly that, instead of the yearly situation, we have a six-monthly inspection of these vehicles, not only to test them for road-worthiness, but also for the heavy tints—my colleagues here Sen. Daly and Sen. Hosein spoke of the heavily tinted glass of vehicles, some of which he said looked black—and the pretty paint on the front and back windscreens. I saw on my way here, a very despicable looking creature painted on the back of one and it was marked "Life is a Nasty Thing". I was driving right behind it. You could not see in or out of it. Normally, there would be many ornaments, like the hanging baskets in our homes; these on their own would tend to distract the driver, obstruct his view, and prevent officers outside from seeing inside the vehicle. As my colleague here mentioned, you cannot tell whether man or beast is inside. This is the position as it stands, but I do understand the dilemma of the Licensing Authority because that department is so understaffed they do not have the manpower to check on these vehicles on the roads. I am begging the relevant Minister to see what he can do to help the staff there.

Under clause 6(1), the requirements for an applicant who desires to be an owner or an operator, as is now being proposed, for a maxi-taxi are already spelt out. Any person applying to the Authority for a permit must be first of all, the holder of a valid driver's licence and a badge and secondly, his application must be accompanied by a certificate of good character. In addition, Sen. Daly mentioned that the prospective applicant ought to subject himself to a medical examination and bring a certificate of good health. That I agree with.

I should like to add two other qualifications—that the proposed applicant ought to have at least three years' continuous driving experience of a public service vehicle, such as the conventional taxi-cab, to his credit. In addition, as is

happening in certain parts of the world, certainly I know in the United States and the United Kingdom, where offences are committed, the courts haul in the defendants and, apart from their fines, they are put through a course in defensive driving. Why can that not be instituted in our country? Foreigners are appalled when they come to this country and see the type of driving we have got on our roads with the number of vehicles on our very narrow roads and the manoeuvrings that our drivers do on these roads. They are scared because they are used to the long, wide open spaces on their roads.

This is my suggestion, in addition to the suggestions of the other Members. This would also generate more employment. At present, the few instructors who operate driving schools are not teaching defensive driving at all, and this may encourage them to teach defensive driving for the benefit of prospective drivers who should produce evidence of having done the course before they are put in charge of a public service vehicle.

Now, we come to clause 7(1), which comes into operation after the Authority is satisfied that all these requirements, and the regulations governing the application for such a permit are satisfied or complied with. After this is said and done, the permit is issued.

On specifications of maxi-taxis, this is a very sore point. My view is that at present there obtains, with the permission of the Licensing Department, seating accommodation for two passengers in the front alongside the driver. Much mention was made about the little mini-skirted ladies who could distract him, and of the conversations that can take place between passengers and drivers that could also distract, and in half a second an accident can occur.

I, too, support the recommendation made previously that these front seats be eliminated altogether and the driver sit, like in most of the transport buses in the United Kingdom, inside a glass case where you cannot speak with him after he has shut himself in.

3.20 p.m.

Another Senator spoke of the fifth schedule and that, again, is part of the regulations. As I say, again, the specifications should be omitted, in my view, as a distraction—and other things, as pointed out before, could cause much untold misery.

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I am also advised that in all these route areas, the position is still the same: It is not confined to zone A or B or I or V or III, throughout Trinidad and Tobago it is happening that there are, I am told this, favourite maxi-taxi operators who have the preference of teen-aged school students, both male and female, would you believe it? Female for a particular purpose and male for the purpose of the loud blasting music that is being aired in there.

I am also told Sir, bear this out—I qualify it—I am told that it works both ways, that while there are preferences by the maxi-taxi driver operators for the teen-aged students, male and female, for their own purposes, these students also have their preferences for the maxi-taxi operators. So the loud music is there, enjoyed—though it bursts your eardrums—as one of the Members prior to me said. He told us that he heard it a quarter mile away and then a minute and a half before he saw it alongside him; and all the glass in his car was vibrating. Consider what it is like if you are sitting as a passenger inside that vehicle with the windows closed. While this might contain what you call an enticement or an inducement—call it what you will, Sir—a preference to travel in these types of vehicles is certainly in vogue for our younger population.

The older folk tend to take the PTSC and now they have got the air-conditioned express buses, I think they are happier paying a little extra and going on those buses. The elderly folk, the mature people do it but still our teen-aged population are subjected to this type of thing. So more vigilance on the part of officers to prosecute this type of offence will make it safer for all travelling inside these vehicles and also safer for those of us who are outside these vehicles.

Under (f) of the regulations for the operation of this Act, there is the provision restricting the number of maxi-taxis to be allocated to a successful applicant.

Mr. President: Senator, you are dealing in very great details with the regulations. I am not a legal expert, but my understanding is that the Act was struck down due to a ruling of the court and I would imagine that the regulations are also struck down, and that new regulations will have to be brought when this Act is passed, which will then give the authorities the power to make the regulations.

In the meantime, I do not mind a passing reference, but to go into details of all the regulations that are, in fact, not existent at this time would be in vain.

Sen. Mahadeo: I am guided. The only thing is I did not have the regulations as proposed with this other bill, as it were, before me.

Mr. President: Well, my understanding is that the law has to be passed first to give the authority to make rules and regulations before those regulations can be brought. This is why it is seldom ever that regulations are brought while the bill is being processed through both Houses of Parliament.

Sen. Mahadeo: I am guided by your ruling, Sir. I was only making my voice heard as to what I should like to see happen when the new bill is re-enacted and the new regulations following on the heels of this new bill are brought in so that we are not going to—I do not want to use the words “waste time”—coming back to rehash and say I want such a thing put into the new regulations. It was only for that purpose, Sir, that I am making passing mention to these regulations in order that the Minister concerned would make a note of it so that when the Act is re-enacted the regulations that are now deficient in these areas would also be taken up. But I am guided by your ruling and I thank you for that, Sir.

We were speaking of the fundamental rights of people to be allocated five taxis or 10 taxis or two dozen taxis. There is something to be said for the fleet owners, because one fleet owner cannot operate 10 or 20 maxi-taxis. He would have to take 19 operators to operate with him. There would be more work generated in the long run. Many more people would be able to enjoy employment with this situation.

I have taken the opportunity, Sir—and this is why, again, I am mentioning it at the very last section of my contribution—of highlighting certain sections of the regulations, although we are not now engaged in that exercise, but these are inextricably linked to parts of our Act and the proposed re-enactment of certain clauses that have been put specifically before us so that we cannot look at these sections of the Act in isolation.

On the question of insurance, which the hon. Attorney General mentioned and again taken up by Members before me, I do endorse that the insurance question ought to be looked at very carefully, especially in the light of what I said happened in my presence in the court on Friday last of a case of overloading. How many more pictures of that will we have throughout the country, Sir? We have got to protect our people who use these public service vehicles.

Under the section, again, where you need to have special signs written if you are operating in your zone or outside your zone and you are on a specially chartered trip, there is the specification that you must put your destination back

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and front, and “chartered” back and front. But in actual practice, how many of these maxi-taxi operators do such things? Very often, you do not see these signs marked in, and this is another area in which I should like to see the officers charged with the responsibility see that these things are observed.

With this, Mr. President, I am prepared to support this bill, because I know the dilemma in which the Government has been placed. So very rapidly have things happened in the recent past and I also want to congratulate the Attorney General for having brought this bill so very quickly on the heels of the judgment that was handed down. Thank you.

Sen. Roi Kwabene: Mr. President, we are presented here with an opportunity to discuss the whole issue of the maxi-taxi service as provided in Trinidad and Tobago. I agree that during the debate many Senators have strayed and discussed the regulations, but I should like to refer to the Administering Authority as noted under clause 3 (1):

“The Administering Authority shall be charged with the responsibility for implementing and regulating the system.”

I am of the firm opinion that as listed in clause (2), stating that:

“... the Authority shall collaborate with:

- (a) the Advisory Committee;
- (b) the Police Department—Traffic Division;
- (c) the Transport Board;
- (d) the Highways Division;
- (e) the Public Transport Service Corporation; and
- (f) the Ministry of Legal Affairs.

I conceded the relevance of having an Authority. However, I sincerely hope that it would be possible to include on the Advisory Committee, as it existed before, a member of the Unified Maxi-taxi Drivers’ Association. I should also like, if it is possible, to include on the Authority a representative of that board. I think it is very necessary. In that way we could have more co-operation in the society, and many of the problems that we have mentioned here via the regulations could be probably brought to nil.

However, again, clause 6:

“A person who is desirous of—

- (a) owning and operating a maxi-taxi, or
- (b) operating a maxi-taxi, may apply on the prescribed form to the Authority for a permit to do so.”

It goes on to say in subclause (2) of clause 6:

“An applicant referred to in subclause (1) shall—

- (a) be a holder of a valid taxi driver’s licence and badge; and
- (b) attach to his application a certificate of good character.”

The Minister of National Security is not here, but this whole thing concerning a certificate of good character, not because one has not been apprehended by the law, that does not give one a good character, you know. We have a major problem in our society with regard to the behaviour of people involved in this maxi-taxi service and I am quite sure that many of them will be able to get a good certificate of character but as far as the moral upbringing is concerned, that is still questionable when one observes what is happening on the streets today.

For instance, we have proposed here, by my senatorial colleague, Sen. Hosein, that the age limit of the people who would be in charge of 25 or more lives on that vehicle should be raised to 25 years. We are saying that those persons should be experienced enough to know that they have the lives of these passengers in their hands and should conduct themselves accordingly.

Another suggestion was that the individual who is the driver of the vehicle should not be distracted by the passengers. Now, if we are going to go in that direction, the driver would not be able to collect the fees for the service provided. Again, here is an opportunity for us to give a chance to our young people, as it already exists, whether conventionally or otherwise, to be conductors on these vehicles.

I would submit that if at all it is agreed by the goodly Minister and the Attorney General to have conductors on these vehicles, that they, too, should make applications; that they, too, should also have certain qualifications, and they do not have to be too harsh. I mean, it is important that they have a little command of mathematics at whatever level in terms of being able to check; that is important.

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In addition to this, I am very concerned about their behaviour and deportment. I know too well that there are many conductors who dress very inappropriately for the job and many of them are also guilty of abusing passengers. I witnessed a student actually being driven to a point further than her destination, and these are things we have to look at closely.

I am suggesting here that if you do have conductors, let us have some measure of regulation, let us have some sort of application, let us have some sort of thorough training for them, seminars, *etc.* with regard to their behaviour, because remember, they are providing a service.

Another point that I should like to raise is in respect of the unroadworthy vehicles that are plying the trade right now across the routes in Trinidad and Tobago. There are vehicles—I do not know how they got to be on the road. I was made aware only yesterday about the instances where there are vehicles on the road in respect of which the people can present to you a certificate that states that they are roadworthy. It is a bit unfortunate, because some of these vehicles are not, and something needs to be done by the Licensing Authority in that respect.

The police service, as well, needs to pay attention to the job that they are supposed to be doing as far as traffic regulations are concerned. I think we have too much overloading taking place right now. I think something has to be done about that.

Basically, that is really what I have to contribute in respect of this whole issue concerning the maxi-taxis in this country. Many of the points which I listed previously have already been mentioned and I do not think it is necessary for me to be too repetitive in this respect. I thank you very much.

Sen. Everard Dean: Mr. President, I rise in support of the bill before the Senate. As you know, Sir, I am not a lawyer. In fact, this Senate is very fortunate to have five or six lawyers. Neither, Sir, am I a bush lawyer and I hope I am correct in recognizing these persons as lawyers, for I have heard some time ago, some place, a very senior accounting executive described as a bookkeeper. Who knows, perhaps one day someone might be tempted to call our lawyer colleagues, bush lawyers.

But seriously, Mr. President, let me say that I have read the bill as a layman, and I believe I have read it in the same way that the untrained eye of the man-in-the street would have read it. Notwithstanding the admission of the violations of

section 4 and 5 of our Constitution, when I compare the provisions of the bill and its intent, personally, I do not see any fundamental infringement taking place. As a matter of fact, if this bill is not supported, we would end up in a very chaotic position which may even further divide our society and cause, if I may use the words, the alienation of some of our citizens.

Notwithstanding the privileges enjoyed by Members of Parliament, I would not want to say how I feel about the reason or reasons for our having to discuss and deal with this bill in an expeditious manner. I believe until there is a West Indian Court of Appeal, there are two other avenues available to the Government to complete the exercise of due process, that is, the Court of Appeal and the Privy Council. But, I do not believe we have the time to wait on those jurisdictions to regularize what has been ruled as being illegal.

As I said before, I support this bill, and I urge Members of the Senate to do likewise, for I see no undue suffering being caused by its passage.

In closing, I should like to express my congratulations to both the Attorney General and his Government for taking speedy action in order to correct the situation that needed to be corrected yesterday. I would also want to congratulate the *Trinidad Guardian*, if you would permit me, Sir, for an editorial in the issue of Thursday, May 21, 1992, page 8, under the banner headline, "Maxi-taxi law punctured". It said:

"The decision of Justice Aeneas Wills in declaring the Maxi-Taxi Act of 1979 unconstitutional, null and void and of no effect once again illustrated the crucial role of our courts as guardians of the rights and freedoms of our citizens. Those rights and freedoms are detailed in section 4 of our Constitution, and the very first of them is "the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process."

The editorial went on, Mr. President:

"However, it must also be pointed out that Parliament, in the interest of good Government or national security or for the orderly regulation of certain areas of national life, or even to protect citizens in certain circumstances, may see the need to enact legislation which curtails in some way or to some degree the rights and freedoms enshrined in the Constitution."

Mr. President, this editorial goes on to say:

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“Among other things, the Act must declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution. Such a bill must also be passed by not less than three-fifths of the Members of both Houses of Parliament.”

This is exactly what our hon. Attorney General is attempting to do today. It goes on:

“When Justice Wills quite properly declared the Act null and void on Tuesday, he removed the legislation governing maxi-taxi operations in the country over the past 13 years. It means these vehicles can now ply for hire in any part of the country, regardless of route or colour.”

It is not for me to say what kind of situation would evolve if this should ever take place. One can also congratulate the taxi drivers for the self-discipline that they have imposed upon themselves by not going into the other areas and for waiting patiently on this debate and the outcome of it.

Mr. President, the last two lines of the editorial:

“It should also be a lesson for our lawmakers.”

This I term responsible journalism. I break with tradition in Parliament of criticizing newspapers on this occasion to compliment the *Trinidad Guardian* for a very well-written editorial.

Mr. President, if you would listen to a few rehashes, just to briefly endorse some of the comments made on the tinted windows, the loud music, the obscenities and the indiscipline of some of our maxi-taxi drivers. It is very unfortunate but in today's *Guardian*, there was this incident in Barrackpore about a school girl in a trace, and when the police saw this vehicle parked up there, unsuspectingly approached the vehicle only to find the driver and a 14-year-old in a compromising position. This, I believe, must be looked at very seriously, because Senators before me have pointed out that there is a certain degree of immorality as far as the maxi-taxi drivers and some of those conductors are concerned.

Speaking about conductors, one way that the Minister may want to address that situation is to start licensing them, making them provide good character certification before they are allowed to operate in these areas, and they must do their work in a very disciplined manner.

Just a brief passing comment, on clauses 5 (1) (a) and (b) which state:

- “(a) its safety as a public service vehicle; and
 (b) the convenience and comfort of the passengers...”

I will not go into any detail on this because I think this was already addressed by Senators before me. What I would say, however, is it is useless putting these bits of legislation together without implementation. What is needed is vigilance by the regulatory authorities to ensure that these things really and truly are dealt with.

Let me, in closing, Mr. President, once again, congratulate the Attorney General and his colleagues for bringing this bill before the Senate so speedily. It is the third such bill, as I recall, Sir. One was the Land Tenants, the second was the Value-added Tax, and now the Maxi-taxi. As my colleague, Sen. Daly said, it is good crisis management. But we must go a bit further than that. We must look at the areas that we need to have laws implemented for better run organizations.

I want to, with your permission, Sir, just mention two areas that I hope that the Government and the Minister will address quickly. One is a new companies bill, because people have been suffering as a result of the effects of the present Act. That needs to be addressed and it needs to be addressed quickly. The second one is the Monopolies Commission. We heard about this before. Some people feel that there is no need for a monopolies commission. Mr. President, you can only look at what is happening with Neal and Massy, Geddes Grant, the Stock Exchange, *et cetera*, to see that there is a need for a monopolies commission. Mr. President, I thank you.

3.50 p.m.

Sen. Hydar Ali: Mr. President, I also should like to commend the hon. Attorney General for bringing this bill to the Senate so quickly. I think it is still rather unfortunate that it had to come, as Sen. Daly said, after a legal crisis. I think the maxi-taxi system has gone through several crises, and something like this should have come before. That is not meant to diminish in any way the alacrity with which the Attorney General acted. Speaking at this time in this debate, one hardly has room for manoeuvring, but to do like Sen. Mahadeo, not apt to teach, just play my role.

Some of the crises which affect the maxi-taxi system relate to some of the things that have been said before. Even the Attorney General admitted these things in his presentation. He talked about accidents and noise, reckless driving—not those exact words, of course. He has not mentioned things like hold-ups, the touts, and so forth, but others have mentioned those things.

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I know this bill has been brought here because of a crisis, and that is why I am going to support it. I think one could have taken the opportunity to add a few things at this time. I notice the term "operator" has been used throughout the bill and also in the Act. It says owner and operator. I wonder if this is something that has a wider meaning. So far, it seems that until this bill came to Parliament, "operators" meant the drivers. I do not know if it is meant that operator is synonymous with driver in say, for example, clause 6(1)(a) and (b). Anyway, I should be pleased if it is a general term. I would suggest that in terms of operating a maxi-taxi, one should have a team, perhaps. Right now, we are saying that for a maxi-taxi to be functional on the road, you need a driver, a conductor, and it seems that you cannot do without the tout.

I endorse some of the comments made about training. So far, we have only talked about the driver submitting some things. Suggestions have been made today about licensing the conductor and dressing up the tout, and so on, but I think those are not the only issues. I think we should have minimum qualifications but we should also have some training. We are talking about behaviour, and no amount of pre-qualification can anticipate the kind of behaviour we are seeing. What we need is training. I think we have not, perhaps, suggested it in the maxi-taxi system.

I mention it simply because some of you may remember that when the maxi-taxi system was introduced, it was scorned by the regular taxi drivers—they would stay far away, and there was a different class; there was a class system that was employed in people driving taxis and people driving this "bus". But you know what the situation is now, Mr. President? The situation is that taxi drivers are selling their taxis and they are buying maxi-taxis. It is a phase, you know. It seems that they go through a gradual process—they buy a 12-seater first and then they find it is better to have a 25-seater. I am talking about people whom I know from my village who have undergone this process and they are now the proud owners of 25-seater maxi-taxis. I think the bill, perhaps, could have taken into consideration some of these facets. This hinges again, really, on the things about the conductors and the touts, but these perhaps were not anticipated when the Maxi-taxi Act first came and perhaps when this bill came here today.

Unwittingly, perhaps, these additional people who comprise the operating system of the maxi-taxi system are not doing justice to the system. I have been told, in speaking to some people concerning the touting system and the conductor

system, that passengers who had been converted, to use that term, to the maxi-taxi system and who previously waited for a maxi-taxi are now afraid to use the maxi-taxi because they cannot take on the harassment; they cannot take on the touts nor the conductors, and so forth. And this is not far-fetched. All you have to do is to go down by the bus stops where the Express Commuter Service (ECS) buses are operating and you will see nice lines. The same people when they get a nice service, see how they react. They will queue up like in England; they will line up all around the corner to get this bus and they will not push but wait their turn. When they realize that that is no longer available to them, they will go back to, perhaps, the old system of getting their taxis—pay a little more, and so on. I feel that training is very important here.

The other aspect I should like to mention is in clause 3 (2) which says:

“In the exercise of its functions under subsection (1), the Authority shall collaborate with—

(a) the Advisory Committee;”

I have heard from at least two Senators here today who seem to know of the composition of this advisory committee. Before I came to this debate, I was enquiring whether such a committee exists. I am pleased to know that some people, at least, know not only of the existence of this committee but also, at least, one component of it—the people who belong to the Maxi-taxi Drivers Association. Also mentioned here at clause 3 (2) is:

“(b) the Police Department—Traffic Division;

(c) Transport Board;

(d) the Highways Division;

(e) the Public Transport Service Corporation; and

(f) the Ministry of Legal Affairs.”

I should have thought that the bill coming at this stage would have taken into consideration what obtains at the moment. For example, the maxi-taxi system, in some ways, replaces and certainly complements the public transport system, and, as such, some of its clients are the school-children. There is a very bad example in today’s *Guardian* about one of the consequences of that.

But that is not the only area. I have been told that since they support the public transport system, there are some maxi-taxis which come and wait by the schools just before dismissal, and they do not treat the school compound or their environment with any kind of respect—they park anywhere. I understand that if

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you tell the drivers to park better than they tell you, this is the road, and the Government road is everybody's road, it is their road. Also, they play their music very loudly, and if they come very early, they disturb classes. I should like to see the regulations when—to use Sen. Daly's term—this bill is passed, catering somewhere for the protection of our school-children.

4.00 p.m.

Another clause here 5(1)(b). Mention has already been made already about this. People have read out all the subclauses of this clause—"the convenience and comfort of the passengers". I think this is something that ought to be looked at a little more carefully. It is all right to see a nice, empty bus coming up for inspection and anticipating what is meant to be, but it is something different when it goes on the road.

One of the main changes in the bill is 6(1)(b)—"operating a maxi-taxi". Somebody can apply to become an operator of a maxi-taxi. I wonder if this has come here because of the legal issue, because of the judgment of Justice Aeneas Wills, or because we are trying to regularize a situation that already exists. We have to go by what we hear. What we have heard is, it is because of the judgment.

The other point concerning this, I should like to see—I cannot quantify this—some kind of ratio applied here. Are we going to give everybody who purports to be eligible and qualified for a maxi-taxi, assuming that he produces all his documents, a maxi-taxi permit? I should have thought that there would be some kind of constraint, either a constraint of limit, a constraint of ratio, something like that, at least in the first instance, to see how it works.

One other point I should like to make and it is with respect to 12(1)(f) "restricting the number of maxi-taxis to be allocated to a successful applicant." Mention has already been made about this—and the Authority with approval may consider restricting the number of maxi-taxis to be allocated to a successful applicant. Again, not having the legal training to understand exactly what this means, I can only put forward a suggestion saying that again, for the time being and initially, the restriction should be one maxi-taxi per applicant.

Mr. President, these are some of the comments I had to make on this bill, and I intend to support it. Thank you very much.

The Minister of Works and Transport (Hon. Colm Imbert): Mr. President, I must thank the Members on the other side for their contributions. They have touched on most of the few brief points I wanted to make. I think Sen. Daly's contribution, in particular, has hit the nail on the head, that the reason for this legislation, as the Attorney General pointed out, was that the Government found itself with a legal crisis with a problem of traffic safety, traffic management, possible confusion over interpretation of insurance cover; and this is the main reason we have brought this bill here today.

What I should like to tell the Members of the Senate on the other side as well, is that, fortunately for the Government, my ministry had already completed reviewing all the amendments it wished to bring to this Senate on the Maxi-taxi Act. This is one of the reasons we were able to move so swiftly. In answer to Sen. Ali's concern, it was the intention of the Government to institute the change in the owner/operator provision.

We had looked into this and while, initially, when the Maxi-taxi Act was enacted in 1979 it was thought at that time that it might be necessary to limit operators to owners, we found that at that time the cost of a maxi-taxi was well within the reach of a single individual. Now, a small maxi-taxi can cost in excess of \$100,000 and the larger ones, over \$200,000. It is now quite difficult for many people to be the single owner of such a vehicle, so that it is quite practical now for a number of people to come together to purchase a maxi-taxi. Therefore, we feel it is now necessary to widen the scope and to allow people who are not registered owners of maxi-taxis to be also operators.

Additionally, there are problems such as fatigue of drivers, where persons can only safely drive for a certain number of hours, so that if you had a single owner/operator, the use of the vehicle would be restricted to the safe driving period of the single owner, so we also thought it was necessary to amend this provision to allow continuous use of the maxi-taxi throughout the day and thus, allow greater safety for passengers and drivers. I just wanted to reassure you about that.

Now, there is no doubt in my mind and in the mind of the Government that this Act is essential, that it is necessary to regulate and govern the operation of maxi-taxis throughout the country. For this reason it is necessary to re-enact the Act, otherwise I believe there would be mass chaos and confusion. And while I am on this topic I should like to echo the sentiments of Sen. Dean. I commend all

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the maxi-taxi operators in the country for the tremendous discipline they have shown in not entering other zones and not generally taking advantage of the legal crisis that we have had. I think it says a lot for the people of this country.

I should just like to give some brief details about the need for a maxi-taxi act. The Maxi-taxi Act of 1979 arose out of a 1974 study of the East/West Corridor system. At that time it was found that the existing 5—6-seater taxis were proving to be inefficient for a number of reasons and could not satisfy the demand for public transportation. As a result, the Government introduced the 9—12-seater maxi and the Maxi-taxi Act of 1979 was given birth. In 1982 the Government agreed to the introduction of an amendment to allow the 13—25-seater maxi-taxi. I should like to inform Senators that there are currently 3,500 maxi-taxis on the road, licensed in Trinidad and Tobago.

After 13 years of operation, maxi-taxis have come to be accepted as a major form of public transportation and, as far as my ministry and my Government are concerned, they are one of the pillars of the national transportation system. Without proper laws to govern their operation I think, as I said before—and it needs repeating—we will have a chaotic situation.

Might I also say that I am very grateful for the intervention of Sen. Mahadeo regarding the justification for limiting the numbers on each route because we have recognized that if we do not limit them, we would find a concentration of drivers in a certain area, traffic congestion problems, and other areas may not be served with maxi-taxi transportation. We believe that it is essential to limit the numbers on any given route.

Finally, let me say that many of the points raised by hon. Senators on the other side had already engaged the attention of my ministry, particularly with regard to the regulations which, I give the assurance, we will bring to this Senate very swiftly because we recognize that the Act on its own of necessity needs regulations; and we had been looking at the following areas. We had examined the penalties under the old Act, problems with enforcement; we had certainly been looking at the need for conductors and whether there should be a system of licensing conductors and the whole question of a dress code.

I am not going to make any policy statements because certainly it is a matter of Government policy. I will be taking this to Cabinet very soon but we have already completed our deliberations, from a ministry viewpoint. We had also examined the need for special driving tests for maxi-taxi drivers and any other

requirements such as a medical examination. Sen. Daly mentioned, and certainly we had examined closely, the need for a special permit to drive these vehicles, as distinct from a permit to drive more conventional vehicles. We also had examined music levels, the obscuring of windows, problems with vision, and certainly when the regulations come, I can assure you that all this will be addressed in one way or another. Basically, I wish to stress that if this legislation is not approved, we would find ourselves to be extremely irresponsible, giving rise to mass chaos on the roads of this country. Thank you, very much.

4.10 p.m.

Sen. Surendranath Capildeo: Mr. President, I rise, not to praise the Attorney General, nor do I want to bury him, but to tell him that when he deigns to come to the Senate, he must come good, even if it is under "Willsian" pressure.

We have been hearing all along about the urgency and the crisis situation which we have found ourselves in because of the judgment of one Mr. Justice Wills in a civil matter. Now, if that judgment did not take place, there would be no crisis; there would be no bill; there would be no assessment of the Maxi-taxi Act; there would be no new regulations. We are now hearing about regulations which will take into account all the problems raised by my Friend, Sen. Hosein and the Independent Senators. We are now hearing that regulations are there on the cards. But, this is the Senate of the Republic of Trinidad and Tobago, and when you come to the Senate of the Republic of Trinidad and Tobago with a bill which speaks of regulations, although the law says that you must have the Act and then the regulations, common courtesy demands that in order that the Senate may make an intelligent contribution, we have a look at the regulations. Because I shall be showing you later how the regulations will become nonsensical.

You see, we are hearing crisis, urgency. This "Willsian" judgment has got us in a bind. We come now and it is our bounden duty that we automatically pass this piece of legislation to save the country from descending into chaos. I want to put that in perspective, Sir. This country is in a perpetual crisis, chaotic situation. There is not a ministry that is not in chaos. There is not a ministry that you cannot have emergency legislation with, from the "egg-nog" ministry, coming right down to my Friend's ministry, that is the Ministry of Planning and Development. This country is in total chaos. So to come here and to push this bill at this honourable Senate and say, "look, let us rush through this, because it is only a legal technicality. We want to save the country," I say, Sir, that is slightly contemptuous

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of the situation. The whole country is in a state of chaos. When I look at this bill and I look at the haste with which it was drawn up, I think to tidy it up they should have had the long title put in the bill here. My Friend, the Attorney General, will know what I am speaking about. I do not want to delve into legal semantics. But when I look at, say, clause 5—and I have listened to my hon. Friend, Sen. Kuei Tung recently in several debates—it says:

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

Very commendable.

- "(a) its safety as a public service vehicle;
- (b) the convenience and comfort of the passengers;"

Very commendable; you cannot fault that:

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

So if you are coming to rush this bill through Parliament, which sections of the parasitic oligarchy are you protecting? "The facilities available for assembling the vehicle locally?" Which one of them? Who is assembling? What are they assembling? "Such specifications as may be prescribed?" Mr. President, what is all this thing about trade liberalization, free enterprise, free market? Any individual can get up and push his business as far as he can under this new free enterprise system. But you tell me here you want to look at the facilities available for assembling the vehicle locally and you have a monopoly situation there, and you talk about trade liberalization? What happens? Is there a review situation here?

If we are dealing with the bill in its urgency, should there not be built into this clause somewhere, something about a review procedure? So that if a citizen is aggrieved, he could go, say, within 90 days and appeal, or he is told within 90 days whether he can be reviewed.

Then we go on to clause 6(1):

"A person who is desirous of—"

- (a) owning and operating a maxi-taxi; or
- (b) operating a maxi-taxi,

may apply on the prescribed form to the Authority for a permit to do so.”

There is nothing wrong with that. Clause 6(2):

"An applicant referred to in subsection (1) shall—

- (a) be the holder of a valid taxi driver's licence and badge."

I want to know, if we are having a free enterprise system here and a man wants to invest in a maxi-taxi to generate employment, to earn income, to keep the economy going in his own little way, but he does not want to go up for a taxi badge, what happens? Why must a person who wants to own a maxi-taxi, also be the holder of a taxi driver's licence? Why that restriction on this? If a man should be fortunate enough to win the lottery and in his retirement years decided to invest in a maxi-taxi, why should he have to go and be the holder of a valid taxi driver's licence? It does not make sense to me.

On this whole question of a certificate of good character which my Friend, Sen. Kwabene has raised, there is a lot of doubt in my mind as to the effectiveness of that in this country. I think, more often than not that those certificates are not worth the paper they are written on, with due respect to the people who have to issue them. We just do not have the wherewithal, we just do not have the system that such a certificate requires.

Clause 7(1):

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

4.20 p.m.

Mr. President, even in this case, even in this rush it would have been a pretty simple thing to put a time element on this. Either his application is accepted or rejected say, within 60 days as it stands; the bill states:

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

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What is the poor applicant to do if he does not get a reply? To whom does he turn? Where does he go? And then we come down to the exclusion of the repossessor. If the repossessor is excluded, why then must a person have this valid taxi driver's licence? If you could exclude the repossessor, you could exclude this holding of a valid taxi driver's licence and badge. Anybody who wants to own, who wants to invest, let him invest.

We come now to the deterrent clauses. I think it has been a truism throughout the debate by every Senator here that much is left to be desired about the operations of the maxi-taxi system in this country. A deterrent should be a deterrent. When you read the report in today's *Guardian* which says:

"Sex in Maxi

San Fernando—A 30-year old maxi-taxi driver of Penal was caught by the police having sex with a 14-year-old female student..."

Apart from the Kama Sutric performance in that maxi-taxi what is at issue here is our children, because when they are mangled on the East-West Corridor and when the taxis are involved in horrendous accidents and school-children are incapacitated perhaps for life, or killed, or as happened in the cane-field—more things happen in a cane-field than one could perceive. When that situation takes place what is of issue here, is the very lives of the flowers of the nation. One would have thought that if you are going to have a deterrent in an Act it would be a deterrent so that anybody who is caught violating any section of the Act knows he would be sunk. So that you come to this Senate, and you come with effective deterrent. Not a deterrent that says \$5,000. Mr. President, that is no kind of deterrent. It must be a deterrent which will stop other people from committing any illegal acts under this bill. The point I want to make is that consideration should have gone into this bill with special emphasis on the protection of school-children.

I heard the Minister say that the maxi-taxis are now one of the pillars of public transport in this country. If one of the pillars of public transport in this country is the maxi-taxis, and the children of the nation have to travel in those maxi-taxis, then the utmost protection is demanded of this Parliament for those children. The children must be protected if they are to be transported by the maxi-taxis and the relevant protection must come in the form of insurance, it must come in the form of the personalities who are to drive these maxi-taxis and at all cost, the integrity of the children of the nation must be protected and there can be no compromise on that.

So to come to me and tell me that because Justice Wills has struck down this Act as unconstitutional—if he did not do it where is the urgency? It would take a lot for this Government to convince me that it is really that urgent. The urgency, as I have said, has always been there. Our children are being mangled on the highways, our children are being teased, touted and as the *Guardian* said, are “open to all kinds of unscrupulous behaviour”. If this is a major pillar of transport in this country then special attention must be paid to the children of the nation who use the service.

It has been said that regulations will be provided but it has been the experience with the present Government, its predecessor in title, and of the offspring of its predecessor in title—are you the 'A' or 'B' team? The legend and the tradition of its predecessors in title is to bring regulations a decade later. A decade later they come along with the Land Tenants (Security) (Rent Review) Regulations. You come in here with this bill, come with the common courtesy of showing me the regulations at the same time. For example, I will use one.

Under clause 12, you want to restrict the number of maxi-taxis to be allocated to a successful applicant. I have a problem and Sen. Kuei Tung is going to have a problem. What if one Mr. Ramdeen was to be reincarnated and says, I want to run a bus service in this country and I want 50 maxi-taxis? Tell him no! Are you going to inhibit and tell a citizen of this country that he cannot invest and create employment and have a downstream industry going? Are you going to restrict him?

What happens if a local entrepreneur says that he wants to go in a big way in maxi-taxis? He wants to employ 50 drivers, 50 conductors, he wants to keep a garage going. He will be buying 200 tyres a month to keep the thing going. What happens? Are you going to tell him, no, you are going to restrict him? What happened to all this trade liberalization, this free market economy, this open system? What would happen if I say I want to bring in a maxi from South-East Asia and you tell me no, Sir, somebody is assembling maxis here and that is the only one I am going to approve? What would happen at that point? *[Interruption]* You would like to know what I think? When I am on that side you will hear what I have to say. Just wait, it is only a matter of time. The alternative government shall be there, then you will know.

The point at issue is that you cannot come to this Senate under the guise of an emergency and say to the Senate of this Parliament: look, I need your assistance; I

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want you to pass this legislation because there is going to be chaos on the roads, when the very Minister says you have to praise the people of this country because no yellow-band has gone into a red-band area, no red-band has gone into a green-band area. The citizens, as in that famous football match, as is general in this country, are showing much restraint and discipline so that the urgency really, is not the urgency to regulate and to regularize the Maxi-taxi Act. The urgency is: is the appeal about to be filed? Will the appeal be successful?

The urgency is to get around the appeal. That is the urgency. But I would not go into that. I do not want to be accused of interfering with his judgment. That is the urgency. He must be honest and say that. Because if you have lodged your appeal, proceed with the appeal. The citizens are disciplined enough. They have not broken any of the laws. Again, if you are going to come with this bill come with the regulations and come with the 13 years' experience, and the 13 years' experience shows that the biggest victims are the travelling public and the children. You should have made provision for them in this Act, then you would hear my views whether I support it. Thank you Mr. President.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. Diana Mahabir-Wyatt: Thank you. Mr. President, I have been reassured by the comments made by the Minister of Works and Transport. So many other points were raised and at least the ministry has looked into these, so I am not going to go back over what is obviously a redundancy. I should however like to pick up on a point made just before the break by Sen. Capildeo. It would appear from a careful reading of the Act, that if I wish to buy a maxi-taxi and have one of my children run it for me to support me in my old age, this Act would not allow me to do so.

I was very much in support of this Act simply because I have run across so many instances of people who can no longer drive their maxi-taxis because of age, infirmity or ill-health and want to get someone else to do it; very often a child, or hire someone else to do it. But just to extend that one step further; if somebody wishes to buy one not having previously been an owner/operator, it would appear that clause 7 of the Bill would prevent him from doing so.

I do not believe from what the Attorney General said when he introduced the bill that this was intended. I think that from what he was saying it was intended to allow for the situation I outlined earlier. I wonder if this might not be perhaps a good time to approach it, since from what I understand the Minister of Works and Transport to have said, the amendments which that ministry was proposing had already gone into this bill. That I think is the point that concerns me most.

I join with the other voices in congratulating the Minister on getting this legislation to us so quickly and just to warn him that in future we are going to expect other legislation as quickly in times of urgency. Since the example has been set, we shall of course be looking to make sure that this standard is maintained.

The only other point that I should like to emphasize, I think, has been taken up already by the ministry and that has to do with the whole question of safety in terms of driving. Actually, I should have liked to recommend that in the regulations, it be stipulated that only women be allowed to drive maxi-taxis, because for one thing, they have fewer accidents and when they have accidents they are not as serious and we do not have very many instances of women taxi-drivers molesting little school girls. In fact, on almost all counts which have been brought up here today, I would suggest that having women maxi-taxi drivers is part of the answer.

Unfortunately, the Constitution of the country speaks of equality before the law and I would not want to discriminate against those males who are at present driving, but I would leave the thought with the Minister; he might be willing to broach the Constitution once again.

That is all that I have to say. I just wish that point about individual owners could be addressed. Thank you

Sen. John Rooks: Mr. President, I do not want to belabour anything. Everybody has raised all the points which I had in mind.

The main concern I have had is the complete disregard for the rules of the road exercised by maxi-taxi drivers. It is in all forms such as breaking the red light and speeding. If you go on the Priority Bus Route, you never see them going under 100 kilometres per hour and sometimes up to 130 kilometres per hour. They come from the side streets such as Broadway onto South Quay and do not even bother to stop. There are two lanes and they straddle both lanes. If a passenger wants to get

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off, they will stop right there instead of pulling to the side. They just have a total disregard for the law and nothing is being done about it. This, I think, is the cause of many of the accidents which have occurred.

With all the daily driving that they do, I think they are very good drivers, but still they must be made to stay within the law. Their disregard of the law is the reason our children are being killed. We have to protect those children.

As I said, I do not want to belabour anything because everybody has covered all the major points. Thank you.

Sen. Wade Mark: Mr. President, the object of the bill, as identified in the explanatory note, is aimed at re-enacting the Maxi-taxi Act in the light of a recent judgment by Justice Aeneas Wills, in the matter of *Kirk Mendez versus the Transport Commissioner and the Attorney General of Trinidad and Tobago*.

The bill also seeks to introduce two new provisions that were not incorporated in the Act which was declared illegal and unconstitutional by the civil court. I think that while the hon. Attorney General sought in his opening remarks to indicate that this exercise is a simple one, we are dealing with a bill that is designed to replace one that was struck down, and it is our responsibility on this side to put this thing in perspective.

We know for a fact, as identified by the Minister, that a crisis has developed as a result of this gap created, but we have to focus on this Maxi-taxi Bill, in the context of the absence—and I think we need to discuss that here—of a proper national transport policy in Trinidad and Tobago, because the Maxi-taxi Bill and as was pointed out by the hon. Minister of Works and Transport, now constitutes a very important pillar in the transport industry.

It has to do with the ineptitude of the previous PNM Government that was in power for 30 years because this Act that was struck down was passed by the then PNM. If we are to look at this Maxi-taxi Bill in its proper framework, we have to examine why after 30 years of one party in government—we have them for probably another five years—a proper national transport system was never established.

I believe it is important because when we are debating this particular question we have to put it in perspective. The PNM always had a policy of addressing road congestion as opposed to formulating, designing and executing a proper national

transport policy. This is why we believe that the nation has been subjected to a scheme of *ad hocism* in which gaps are filled without any regard whatsoever for the comprehensive long-term effects on the country as a whole. We believe that in the absence of this national transport policy, and in the absence of a reliable and extensive transport system, the bulk of the travelling population has been forced to rely almost exclusively on private means of transport for daily commuting.

5.10 p.m.

The last figure that I came across in this *Annual Statistical Digest* of 1990 revealed that we have close to 372,000 different registered vehicles in Trinidad and Tobago. As I go along, I shall bring to your attention what is taking place with the PTSC. We are talking about the maxi-taxis and we have to tie in this with the PTSC. The maxi-taxis are being seen as a very important pillar of our transport network in Trinidad and Tobago. The maxi-taxi drivers have problems, one of which is—I am happy that the Minister of Works said that regulations are in place. I am wondering if a crisis did not occur, if we would have had regulations. He did not indicate to this Senate, when these regulations are coming. He was very silent on that.

Senator: Very shortly.

Sen. W. Mark: That could be next year.

I want to say from the outset that the maxi-taxi drivers have made a very important contribution to national transportation in Trinidad and Tobago. They have filled a gap deliberately created by the past regime of the PNM, the NAR, and now this one.

The maxi-taxi drivers are caught in a virtual trap by the assemblers, the bankers and the insurance companies. They combine and play a very important role in the kind of madness that we witness on our roads almost every day. I want to develop this point, so that you can understand what I am speaking about when I talk about this trap. The Minister of Works indicated that the 12-seater maxi is close to about \$100,000. I understand that it is close to \$140,000. The 24-seater is not \$200,000, but \$280,000. I understand that there are some vehicles that are cost prohibitive—those that are being brought in by Sterling, the sister company of Neal and Massy. They cannot be sold because they are too expensive.

The instalment on a 12-seater is between \$2,500 and \$3,000 per month. On a 24-seater vehicle costing \$300,000, the instalment could be close to \$7,000 a

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month. The insurance on those vehicles is between \$15,000 and \$30,000 a year. One can well understand the hustle that we witness on our roads with the maxi-taxi drivers.

The Bureau of Standards has to play a more important role in the quality of our vehicles, in particular, those maxi-taxis being assembled by Neal and Massy. The maxi-taxi drivers recently staged a protest demonstration outside the Neal and Massy plant at Morvant against the quality of the maxi-taxis they are releasing to them. The quality of tyres is extremely poor. We have to talk about standards here because the lives of people are at stake. Drivers of maxi-taxis leave home at 5.00 a.m. and return sometimes between 9.00 and 11.00 p.m.

Close to 75 per cent of the 3,500 maxi-taxis on the roads, to which the Minister referred, are not owned by their drivers and this has been so for a long time. Clause 6(1)(b) states that a person who is desirous of operating a maxi-taxi can now own one. Long before this clause was even contemplated we had fleet owners. One man in Maraval owns 50 maxi-taxis, but do you know what they have done? They have twisted the law. That has been going on illegally since maxi-taxis came on stream. When the Minister of Works says that by bringing this new provision, the "small" people will now be able to put the little chip chip and sou sou hand towards buying a maxi-taxi. Where?

Workers of this country have been denied over \$100 million in severance payments by a number of private companies and neither the last Government nor this one—*[Interruption]* I am making a point here in terms of ownership because the Minister made reference to this. He made the point that, as a result of this amendment, people would be able to buy these things. I am asking, where? With this kind of unemployment? I am saying that what has developed in the maxi-taxi industry is a monopoly—a group of people in different parts of the country owning and controlling large fleets. Do you know what it means? It means a hustle. If you do not know let me inform you that a maxi-taxi driver, who is driving a vehicle on behalf of somebody else, has to bring in \$300 a day, and that is before he can make anything for himself. You have to understand that when he is on Independence Square and he gets a ticket, he has to pay for that as well, and if something happens to the tyre, he has to change that tyre and pay for it.

5.20 p.m.

We are talking about a Maxi-taxi Bill here and we are not taking into account what I would consider to be some of the salient issues. People are dying on the

roads of Trinidad and Tobago. Chandra Mungroo, 14 years of age, from the St. Augustine Girls' High School, she passed away on October 1, 1991 in a maxi-taxi accident. I am talking about the hustle and the pressures that are being brought to bear on the maxi-taxi drivers by those fleet owners.

Anderson Adams, 18 years old from the North Eastern College, he passed away on November 2, 1991. Then you have Allison Thomas, another young child, 14 years of age, she perished too. There is another girl, Alana Gajadhar. She lost her two legs and is permanently crippled; no compensation. Right now she needs \$150,000 to do some diagnostic testing abroad and everybody is trying to help her—the Red Cross, the Lions and so on. This year a young child, Diana Ghany, died, pre-school, five years, maxi-taxi.

What I am saying is that we need to have a policy or an approach in which, for instance, instead of a bank calling on a maxi-taxi to pay \$6,500 a month, or \$7,000 and you have to do that within four to five years, why cannot the banks—if they are sensitive to the needs of this country and instead of their navel strings being tied to the external economy and servicing the needs of that economy—why not, for instance, extend the lending period for those maxi-taxi owners and make them pay a smaller instalment so that people can go to sleep earlier? Instead of being on the road at 11 o'clock in the night, maybe they could go in at 8 or 9 o'clock in the night. But I do not know if the goodly Attorney General and this Government have any intention of approaching the banks and asking them to create more concessionary conditions. *[Interruption]*

Wages have not increased since 1983 and the “mamaguy” that the PNM put on this country in its 1992 Budget—go and talk to the social sector workers, the civil servants, nurses, policemen, firemen and prison officers. They gave them a two per cent award, consolidate COLA and they take back with five hands. So do not talk about that.

Mr. President, let me address you, because the Minister of National Security just came from an excursion to Scotland. Let me indicate to you that there are, in fact, many difficulties confronting these maxi-taxi drivers and I think it might be necessary for us to begin considering some kind of regulation in the form of a minimum wages order for those maxi-taxi drivers out there, those non-owners of maxi-taxis. My inquiries and investigations have revealed that more than 75 per cent of the 3,500 maxis on the roads of Trinidad and Tobago are not owned by the drivers who are driving them. So you have to give them some sort of protection.

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We have to think about the establishment of some minimum wages order to provide these people with some kind of protection in this land. But this careless Government, I do not know if they will consider it.

I am saying that this matter partly explains the kind of deaths. You can have all the training that is necessary, and I agree with training. I am saying that we could organize a national seminar for drivers of maxi-taxis, PH cars and route taxis so that they may understand their responsibility. It is the lives of people that we are dealing with. *[Laughter]* The PNM can continue to giggle and laugh, because they do not care. The same arrogance that the NAR was guilty of they have now adopted. But the NAR paid a very deadly price for that.

The Licensing Office has a very critical role to play in this whole exercise. I want to indicate to you, Sir, and I support the point made by Sen. Hosein, earlier on, that is a kind of situation taking place at the Licensing Office today, where, for instance, people are training your daughter and my son to drive. I am talking about hustlers; just to put a dollar in their pockets, they are training your daughter and my son to drive. There appears to be an absence of any kind of regulations or standards down at that office. What you have is people graduating from that Licensing Office with their permits, and they have not been properly trained. This issue of training and the Licensing Office and so forth taking a more powerful step and playing a more powerful role is very important.

We believe that there is a very important role, as well, for the licensing inspectors. There should be on-the-spot checks on these maxi-taxis. Because you see some of them on the roads and you want to find out if those things were really inspected. I think there is need for greater inspection of those vehicles.

These things must be seen in their proper context. For us to reduce the level of carnage on our roads, the banks must play a role, the insurance companies must also play a role, and those assemblers must also play a role.

I must tell you that in the manifesto of the United National Congress, in 1991, we had made a provision on page 28—because we have a clearly defined transport policy—whereby we would have examined this issue about providing the maxi-taxi drivers with greater concessions.

I believe that the law-enforcement agencies also have a critical role to play, a point which I think was emphasized earlier. I am certain, from information I have received, that many children are now suffering from hearing problems. A doctor

has verified that. When you enter a maxi-taxi, the decibel level is quite high and our children are exposed to that daily. I am saying that we need to exercise some degree of regulation here. The police have intervened from time to time and as they leave you have the same madness. There is need for us to really examine that very seriously.

When we are talking about the Maxi-taxi Bill, I want to put it in the context of a national transportation policy. In Trinidad and Tobago there is something called the PTSC, the Public Transport Service Corporation. That corporation was virtually murdered by the last Government. It is virtually crippled, limping along dangerously and I suspect very shortly, without the injection of additional moneys to keep that important service afloat, it will die.

The evidence today indicates that the PTSC, in the context of a very important public transport service in this country, has not been receiving the kind of financial assistance it needs from the Government. What we have had over the years is a reduction in subsidies to the PTSC. In fact, I made the point over and over, that you cannot judge a service like the PTSC on balance sheet economics. Sometimes a company like that corporation would make losses, but when you think about the safety of our people you can well understand that you may not be able to realize early profits or short-term profits, but down the road your people are going to benefit from this.

The Public Transport Service Corporation had 758 buses in 1980. Do you know how many there are today on the roads? There are fewer than 83 buses on the roads of Trinidad and Tobago. If you take the population of Trinidad and Tobago, the ideal number of buses we are supposed to have is between 800 and 1,800 buses. We now have a mere 83 buses on the road and they recently introduced some luxury buses, which total about 80, but those are exclusive in the sense that you pay for that drive, you pay a cost. It is not, for instance, a service that the ordinary man and woman can easily access if, because of circumstances, they have no choice. To go to Arima, ordinarily, you may pay about \$1.50 on the blue bus. If you are going by the luxury bus, you pay another \$1.50, so \$3.00.

In 1986 there were 117 routes covered by the PTSC. Today, there are fewer than 35. So for children in Cedros, Point Fortin and Toco, buses run every so often, one every two days.

I am saying that the school bus service—because we are talking about maxi-taxis and many of our children travel on maxi-taxis. The hon. Minister of Public

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Utilities made an effort to re-introduce the school-bus service on a limited scale. I understand it has not been that successful. As a matter of fact, I understand the Public Transport Service Corporation management is now calling for more money in order to keep that service afloat.

But in the absence of a proper transport policy, this Government is opening up the economy. The last quarter of 1991 witnessed the importation of fully assembled cars totalling US \$60 million. That was for the last quarter of 1991. The Government is not serious about transportation. This is a matter of expediency that we are debating here. They do not have a clue. Although, for instance, in their manifesto, they talk about transport and communications and what they would be doing for the Public Transport Service Corporation, little or nothing has been done. It is the population who are paying that cost.

PNM governments were in power for 30 years. We have been producing oil for over 100 years and if we are talking about cost efficiency, why not instal CNG on those PTSC buses so that the cost of transportation for the population could be reduced? They have not done that. Instead, the previous Government retrenched close to 800 workers. That is what they have done. Two hundred of those workers were retrenched in 1989, maintenance workers.

Mr. President: From the maxi-taxis?

Sen. W. Mark: We are dealing with a national transportation policy and we need to look at this thing in perspective, because if we do not do so we would get trapped. I am saying that you have to recognize that there is a link between the PTSC and the maxi-taxi arrangement. Because it is as a result of the neglect of the PTSC that the maxi-taxi service came into being. The Government deliberately and consciously ran down the PTSC—that is what they have done, the NAR, in particular. I suspect that the PNM, which seem to be worse than the NAR, they seem to be following all the policies of the NAR, more right-wing than the NAR. They might close down the PTSC. Mr. President, I hope that you will exercise some patience.

Mr. President: I am.

Sen. W. Mark: Because there is a link.

Mr. President: But I just do not want you to elaborate too much on the PTSC side of it. I am sure you can create an opportunity at some future date.

Sen. W. Mark: Mr. President, quite frankly, I think that the hon. Minister did indicate that some time in the near future—I know with this Government when they talk about the near future it could be the next five years—they are going to bring a bill here. I am taking the opportunity to telegraph some of my concerns so that at least if the bill does not come, they will have an appreciation of how we are thinking on this side.

I believe that it is necessary for the Government to become more serious as far as a transport policy is concerned. It is regrettable that the Attorney General, in introducing this bill, did not really seek to elaborate on several important issues. We really wonder whether this bill is not a cover-up. They do not want to appeal. You will tell me that there is a legal crisis and you have not appealed yet? And when we asked the Attorney General today he said it might happen tomorrow or the next day or next week. They want this bill to pass and then they will drop the appeal. They are not serious, Sir. They are using this Parliament. We are not going to be used. Somebody else could be.

Let me indicate to you that as far as clause 7 (1) goes, we are of the view that the Government ought to have—and I listened to your earlier interpretation—

Hon. K. Sobion: I wonder whether the hon. Senator would give way. With reference to the statement made a while ago, is it that the Senate leader on the other side is ascribing improper motives to the Attorney General?

Sen. W. Mark: No, I think the Attorney General is a very honourable man. I could never ascribe improper motives to him. I never intended to do so, but if he interpreted it that way, I must let him know that it was never meant to be that way. I was making a point, a statement.

Mr. President: You did say that he does not really intend to appeal, that he wants to use the bill to avoid the appeal.

Sen. W. Mark: Well, we hope he does appeal. He said so.

Mr. President: That is the part of your contribution he is taking objection to.

Sen. W. Mark: I hope he does not take it seriously, Sir.

Mr. President: You should tell him that you did not mean that.

Sen. W. Mark: Mr. President, there are some strange twists taking place in this society. This gentleman, Sen. Kuarsingh, some years ago, was riding high on the NAR bandwagon. He jumped ship some years ago just on the eve of the PNM election—acrobatics and gymnastics—and he was seeking to fight a seat in Princes Town. Mr. President, let me concentrate on you. Let me get back on track.

Mr. President: Sen. Mark, could you please allay the unease of the Attorney General with respect to your former statement.

Sen. W. Mark: Yes, Sir. I was merely indicating that it seems to me that the Attorney General might not be serious in appealing this matter. If, however, he is serious about appealing it, then if I said something that he felt hurt about, the statement is withdrawn. I have no problem with that. What I am saying is that I hope he does. The record will speak for itself.

Mr. President let me talk about regulations here. I think it is important. I listened to your intervention earlier and I thought it was a wise one. However, there is the law and there is the spirit of the law. I believe at this point, when you have a crisis as serious as we have on our hands—both the hon. Minister of Works and the Attorney General alluded to the seriousness of the crisis—this honourable Senate ought to at least have been provided with some elements of the regulations. At least let us know, for instance—because there are so many areas that we should like to debate under those regulations that would govern maxi-taxis.

The Minister says that they are going to come shortly again. Everything is that they are going to come shortly. He might be a very short person. I do not know if there is a relationship between shortly and short. But quite frankly, I do not understand. I think that this Senate requires regulations. I think we also need to ensure that there is, in fact, affirmative resolution, not negative. Because those regulations are not here now. When they do come—we do not know when they will be coming—they will be simply tabled and if we on this side have an objection, we have to file a private Member's motion that may come up next year to deal with a negative resolution, to have a debate on the regulations. I am saying that the hon. Attorney General seems to be a bit confused, here, but let me clear the air.

Hon. K. Sobion: I am following you clearly.

Sen. W. Mark: I am simply saying that instead of a negative resolution of Parliament, the Attorney General should change that to an affirmative resolution of Parliament.

We are living in dangerous times and I believe, Sir, that the Parliament has to take a greater responsibility for its work and, therefore, I am urging the Attorney General to provide the Senate with an affirmative resolution where we can debate those regulations here. We do not want them to just come and be tabled and we do not have a say.

The Advisory Committee is a paper tiger, it is what may be described as a toothless bull-dog. This committee has not met, before the Act was struck down, which was last week, for the last three years. So what is the purpose of this Advisory Committee, Sir? If we are setting up institutions, we have to ensure that they work. So what I am saying to the hon. Minister of Works, as well as to the Attorney General, is that we are going to put back into this Act, an Advisory Committee, but for the past three years that committee has not been working. Although there were representatives on this committee—I understand that there were two maxi-taxi representatives on it—they do not meet. I think it is necessary for this committee to have regular meetings so that we may in fact, monitor the situation very closely.

Mr. President, I believe that the Attorney General would have to provide us with clarification and explanation. He would need to amend this “negative” to “affirmative” and he would need to at least tell us here this afternoon when those regulations are coming. We are not buying cat in bag. We are here for the people’s business. We believe that if we are to be responsible citizens in this Parliament, we need to be furnished with as much information as possible so at least we can make intelligent judgments particularly at the time of voting.

I want to appeal to the Attorney General to provide us with some clarification on the points that we have raised, and depending on his level of clarification and his commitment, we shall then determine on our side how we stand on the matter. We need clear explanations, clear information, clear commitment and we need clear amendments.

Sen. Spence: The Senator seems to be winding up, Mr. President. I just wondered since he and some of his colleagues seem to be somewhat critical of the bill, whether he would care to comment on the report that the leader of his party has suggested he would support the bill provided other matters were attended to.

Sen. W. Mark: I know Sen. Spence has a deep interest in the UNC, he has always had that, but somehow he has stayed away. I have a copy of the manifesto and I have cards and forms. I can link up with him afterwards. That is a question that we will discuss privately.

If the hon. Attorney General could provide us with the kind of explanation that is required and he can make the kind of changes that we are demanding, our stand will then be determined.

I hope that the Attorney General will recognize that this is a very serious matter that we are dealing with and we on this side will never be rubber stamps now, nor in the future. You come to this Parliament, you give us proper explanation, justification, clarification and information on the relevant matter. We are responsible citizens; we are all Trinidadians and Tobagonians.

We want to see our country develop. We want to move forward. We want to improve the quality of life of our citizens. All of us want to do that, in spite of efforts being made by some forces to disrupt the smooth flow of communication between our peoples in Trinidad and Tobago. But we are committed to national unity and we will continue to advocate a policy of equality, of justice, of peace and social progress for all citizens of this country whether they be Indian, African, Syrian, Chinese, Caucasian, Jew or Gentile. That is our policy and we are committed to it.

We hope that the hon. Attorney General would, in his winding up, address some of our concerns on this side and ensure that the next time he comes to this Parliament he provides us with some more explanations so that I would not have to take so much of your time, Sir. Thank you very much.

The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith): Mr. President, I would have very great reservations in debating Sen. Mark on matters of labour and labour relations but I would have no reservation at all about debating him on the matter of transport policy and transportation matters. Unfortunately, this is not the time or place for that debate. It will come when we bring the amendments to the Maxi-taxi Act, and we will indicate quite clearly to him what transportation and transport policy is all about.

I think, that after all is said and done after all we have heard, especially from Members of the Opposition Benches about their concern for the safety of children, concern for maxi-taxi drivers and operators, concern for the travelling public, they

will have to explain to the country how not supporting this bill which seeks in the first instance to at least bring back the status quo where there is some measure of control on maxi-taxis, and leaving the situation without any control of maxi-taxis, is going to solve all the problems they have raised.

5.50 p.m.

Sen. W. Mark: Point of order, Mr. President. We on this side never indicated at any time that we would not be supporting the Government. We never said that. We said that we want clear explanation, justification, information and amendments.

Mr. President: Point of order sustained. I think the hon. Minister was only trying to get an assurance out of you.

Sen. W. Mark: He has gotten it.

Sen. Saith: Mr. President, to me the justification, the explanation is quite simple. You had a situation where maxi-taxis were operating in this country under certain rules and regulations and governed by a law. That has now been removed and what we are seeking to do, very simply, is to ensure that those rules and regulations, as imperfect as they may be—Senators have raised a number of issues which need to be addressed—at least, we are no worse off than we were when the judgment was given. I appeal to all Senators to bear that in mind. What we are really seeking to do is to ensure that chaos does not exist. Those of us who after all the explanation do not find it in our hearts to support the bill need to examine our consciences and to be able to tell the country why we have not done so.

Thank you very much.

The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion): Mr. President, I congratulate the Senators on the Independent Benches, particularly, who had the maturity to see the need for urgency in bringing this piece of legislation before this Senate today. I also wish to congratulate, on another score, the Independent Senators and the Opposition Senators for the recommendations they have made with respect to matters which are necessary to ensure that the maxi-taxi regime is properly run. I am glad to note that those matters they have raised, some of which are designed for regulations, are matters which the hon. Minister of Works and Transport is also giving his attention to. Among those matters is the question of safety, traffic management procedures, the training and licensing of drivers and conductors, *etc.*

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In sum, I think what has happened in this Senate today is that persons have recognized that we are in a situation where passengers in maxi-taxis, since the delivery of the judgment by Justice Wills, were living with a cloud over their heads in terms of safety and will continue to do so until this legislation is passed.

In my opening remarks, I indicated that there is serious concern that passengers are not covered by insurance, and unless this legislation is passed—and that is the reason that particular provision, clause 13, was drafted with retrospective effect—with the requisite majority, then we may have to live with our consciences if any major accident takes place on our roadways.

I want to respond to a few matters raised by Sen. Capildeo whose eloquence always impresses me, or to use his own phrase, his Kama Sutric use of words is always impressive. I think, perhaps, he was the only Senator who did not recognize that there was really a need for urgency, and I think he must have missed the early part of my presentation when I did refer to the fact that there are some serious concerns about the insurance coverage.

In dealing with the points that he and other Senators have raised, I think we really have to look at them in the context of the urgent situation with which we are faced. There was a concern regarding the regulations. There are actually two concerns about the regulations. The first concern was that, perhaps, even as a matter of courtesy, those regulations should have been brought at the time when this bill was being presented. In response to that, I think if you have listened to all the contributions made, all the concerns expressed about safety, the kinds of matters that have to go into the regulations, it would have meant delaying the presentation of this bill, and that is a chance we, as a responsible Government, cannot afford to take. The concern was expressed in such a way as to suggest that somehow if we do not see the regulations at the time we pass this bill, we may never get sight of them again or we may have lost something as a result. Certainly, whether it is by negative or affirmative resolution, this Senate will indeed have the opportunity to debate those regulations and to ensure that they conform to the standard which Senators expect.

Sen. Capildeo: When?

Hon. K. Sobion: The question, Mr. President, as to when these regulations will be brought has popped up, time and time again, from the other side. The response has been shortly. The fact of the matter is, for the Maxi-taxi Act to work, it is necessary to have the regulations. As I explained in my presentation, the

matter was receiving the active attention of the Minister of Works prior to the judgment of Justice Wills. For the legislation to work, it is necessary to have the regulations. So that when we say shortly, it is in that context, to make the Maxi-taxi Act workable in the shortest possible time.

You would know that the matters on which the regulations are to be made are contained in clause 12 (1) which says:

"(a) prescribing all that is required by this Act to be prescribed;"

That is an omnibus provision. But among the things to be prescribed will be: how does one apply to get an operator's permit, and how does one apply to get an owner and operator's permit?

In order for that Act to work, it is necessary to have the regulations, and we are very conscious of that fact. So that when we say, shortly, we mean that the regulations will, in fact, be presented as soon as is humanly possible to cover all the concerns which have been expressed here in the Senate today. We were not intending to be discourteous. This Senate will, in fact, have the opportunity to consider those regulations.

6.00 p.m.

Sen. Capildeo also seemed to have a concern that fleet owners appear to be restricted, but it is a concern which seems to be not *ad idem* with the leader on his right and he appears not to be following his leader on that score. But, of course, it is a matter of some concern which was raised also by Sen. Mahabir-Wyatt who put it in the context of a retired person wanting, and the need for, a taxi driver's badge, *etc.* That is a matter which would require a serious policy decision and it has engaged the attention of the Government.

We must recognize, however, that there are already 3,000 plus maxi-taxis on the road; there is a finite market and the original policy position with respect to maxi-taxi ownership was to restrict ownership to persons who were not employed and who were in fact to use those vehicles as a means of self-employment. In fact, under the Regulations of the 1979 Act, one had to include on the application for a permit a declaration that one was going to use that vehicle as one's sole source of income. That would require a major policy change in position and while one can understand the example given by Sen. Mahabir-Wyatt, it is a matter we could not, in the short period of time, consider and bring before the Senate in this bill.

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We find ourselves in a similar position with the appeal under clause 7. I think the statement was made by more than one speaker that provision should be included for an appeal if the Authority refuses a licence. Such considerations will require the mechanism which will remove the need to go to the courts and it is not very easy to draft a provision such as that, given the limited period of time, but certainly it is a matter which we will give consideration to—provision for the right of appeal from the Authority's determination.

A query was raised as to why the reposessor in clause 8 was treated differently from other persons. The reason for that is quite simple. The reposessor stands in a special position in a sense. He is the one who would have financed a vehicle and having regard, particularly, to the cost of these vehicles, if it is that he is not given the opportunity to apply for such written approval, you may find that you will have discouraged a prospective financier. What we envisage by that clause is that, as I said in the opening, if he had to repossess his vehicle and is unable to find a purchaser, he would be able to use it for some time and that way he would be able to offset the continuing loss.

Sen. Capildeo: Does he need a taxi badge to do that?

Hon. K. Sobion: No. What he requires is the written approval of the Authority. So that he is facilitated because of the special position which he holds and that is a matter for the discretion of the Authority.

Much concern was expressed with respect to the protection of children and I make the point in the same way that Sen. Saith made it, that having regard to some of the statements coming from the Opposition, I am wondering how they are going to adjust their position when one is required to cast a vote on this bill, because the concerns for the population have been expressed in a number of areas—the passenger aspect, the children—all of these matters have to be dealt with by regulations and if they are left deregulated one wonders what would be the result.

Even Sen. Mark, the Opposition Leader in the Senate—waded into the debate and missed the mark completely—has expressed some concern for what he terms “the employees” of maxi-taxi owners and thinks that there should be some minimum wage order. I think he will appreciate that until the position is regularized and until they are legally entitled to drive as operators only, with an operator's permit, we cannot prescribe a minimum wages order in respect of persons who are, perhaps, as the Senator suggested, driving maxi-taxis illegally.

So this is why I say I find with respect to certain statements coming from the other side and certain expressions of concern—

Sen. W. Mark: On a point of information, would the Government be prepared, once the legislation is passed, to ensure that a minimum wages order is issued subsequently, to ensure that there is some protection of workers who are just conductors and non-owners of these taxis?

Hon. K. Sobion: Well the Senators seem to be seeking concessions at every turn. The fact of the matter is, I listened with interest to what the goodly Senator said and I am not sure, in my own mind, that a minimum wages order is what is required. Because, as I understand these transactions, the owner requires the operator to earn a certain amount for the owner and the rest is his. So it will be difficult to prescribe an order. But I listened with interest to the point and I thought to myself that the only way we can protect those unfortunate employees is by regularizing their status.

On the question of whether the resolution should be negative or affirmative, I myself have not given sufficient thought to it, but it would seem to me that whether it is a negative or an affirmative resolution, certainly it is the kind of situation where Government would be anxious to have the regulations passed in the House and even in that direction I believe that some accommodation will be made and not have it drift on for ever and ever. As I indicated, the Act cannot work without the regulations so that I do not see any real concern about these regulations not being presented early and being dealt with as early as possible—

Sen. W. Mark: Would the hon. Attorney General be prepared to introduce an amendment to change “negative” to “affirmative” at the committee stage?

Hon. K. Sobion: As I said, Mr. President, we will be prepared to look at it, but it is a matter on which I do not follow the kind of concern that has been expressed.

In summary, Mr. President, I am very pleased that there has been this appreciation of the fact that this bill must be disposed of as a matter of urgency and I look forward to the support of all Members, both on the Opposition Benches and on the Independent Benches. I thank you.

Question put and agreed to.

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Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 11 ordered to stand part of the bill.

Clause 12.

Question proposed, That clause 12 stand part of the bill.

6.10 p.m.

Sen. W. Mark: Clause 12(2), Sir. We should like to hear from the Attorney General whether, the Government is prepared to change "negative" to "affirmative". It will make it easier for them.

Hon. K. Sobion: Mr. Chairman, having regard to the importance of these regulations and the need to have them effected as expeditiously as possible, we shall have no problem with the amendment suggested.

Mr. Chairman: The question is that clause 12(2) be amended by substituting the words "an affirmative" for the word "negative" appearing in line two thereof.

Question put and agreed to.

Clause 12, as amended, ordered to stand part of the bill.

Clause 13.

Question proposed, That clause 13 stand part of the bill.

Sen. Daly: I am not pursuing the amendment that stands in my name. The Attorney General has explained to me that a difficulty may arise with section 54 of the Constitution and I am prepared, in those circumstances, to withdraw the amendment.

Mr. Chairman: For the information of the committee, Sen. Daly is withdrawing the amendment that he had circulated.

Clause 13 ordered to stand part of the bill.

Preamble ordered to stand part of the bill.

Question put and agreed to, That the bill, as amended, be reported to the Senate.

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Senate resumed.

Bill reported, with amendment.

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

The Senate voted: Ayes 23

AYES

Saith, Dr. The Hon. L.

Huggins, Hon. R.

Barnes, Hon. B.

Kuei Tung, Hon. B.

Yuille-Williams, Hon. J.

Draper, Hon. G.

Robinson-Regis, Hon. C.

Mark, A.

Callender, S.

Ojah-Maharaj, D.

Elder, Miss J.

Kuarsingh, Dr. H.

Rahael, J.

Gosine, Pundit R.

Hassim, A. M.

Mansoor, M.

Spence, Prof. J.

Rooks, J.

Mahabir-Wyatt, Mrs. D.

Ali, H.

Daly, M.

Dean, E.

Mahadeo, C.

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The following Senators abstained: W. Mark, S. Capildeo, C. Merrit, R. Kwabene, and M. Hosein.

Question agreed to.

Bill accordingly read the third time and passed.

Motion made and question proposed, That the Senate do now adjourn to Tuesday, June 2, 1992 at 1.30 p.m. [Hon. L. Saith]

Question put and agreed to.

Senate adjourned accordingly,

Adjourned at 6.16 p.m.