



SIXTH NATIONAL ASSEMBLY

PARLIAMENTARY

DEBATES

(HANSARD)

(UNREVISED)

FIRST SESSION

TUESDAY 10 JULY 2018

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PRINCIPAL OFFICERS AND OFFICIALS

Madam Speaker	Hanoomanjee, Hon. Mrs Santi Bai, GCSK
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MAURITIUS

Sixth National Assembly

FIRST SESSION

Debate No. 22 of 2018

Sitting of Tuesday 10 July 2018

The Assembly met in the Assembly House, Port Louis at 11.30 a.m.

The National Anthem was played

(Madam Speaker in the Chair)

PAPERS LAID

The Prime Minister: Madam Speaker, the Papers have been laid on the Table.

A. Office of the Speaker

Declaration of Interest by the Honourable First Member for Port Louis South and Port Louis Central (Mr. Muhammad Reza Cassam Uteem,) in relation to PQ B/568. (In Original)

B. Prime Minister's Office

- (a) Certificate of Urgency in respect of the following Bills (In Original):
 - (i) The Local Government (Amendment) Bill (No IX of 2018); and
 - (ii) The Road Traffic (Amendment) Bill (No X of 2018).
- (b) The Financial Reporting (Mauritius Institute of Professional Accountants) (Fees) (Amendment) Regulations 2018. (Government Notice No. 80 of 2018)

C. Ministry of Industry, Commerce and Consumer Protection

- (a) The Consumer Protection (Control of Imports) (Amendment) Regulations 2018. (Government Notice No. 81 of 2018)
- (b) The Rodrigues Consumer Protection (Control of Price of Taxable and Non-taxable Goods) (Amendment No. 23) Regulations 2018. (Government Notice No. 82 of 2018)
- (c) The Consumer Protection (Consumer Goods) (Maximum Mark-Up) (Amendment) Regulations 2018. (Government Notice No. 83 of 2018)
- (d) The Consumer Protection (Safety Requirements) (Amendment) Regulations 2018. (Government Notice No. 84 of 2018)
- (e) The Toys (Safety) (Amendment) Regulations 2018. (Government Notice No. 85 of 2018)

D. Ministry of Housing and Lands

The Annual Report of the Town and Country Planning Board for the period 01 January 2016 to 30 June 2017.

ORAL ANSWERS TO QUESTIONS**JAWAHARLAL NEHRU HOSPITAL - BABY BEEKAREEA - DEATH**

The Leader of the Opposition (Mr X. L. Duval) (*by Private Notice*) asked the Minister of Health and Quality of Life whether, in regard to the pre-natal and neo-natal care services in public hospitals, he will state if –

- (a) the parents of baby Beekareea have submitted a written complaint to his Ministry following the death of their baby born on 13 April 2018 at the Jawaharlal Nehru Hospital and, if so, indicate if an inquiry has been initiated thereinto, indicating where matters stand, including, if disciplinary action has been taken, and
- (b) in view of reports of recent incidents having occurred, consideration will be given for a review of the said services.

The Minister of Health and Quality of Life (Dr. A. Husnoo): Madam Speaker, I wish to inform the House that my Ministry has a well-established protocol to investigate into all complaints of alleged Medical Negligence. After receiving a complaint, a preliminary enquiry is carried out at the level of the hospital by the Regional Health Director and the report is submitted to the Ministry for any appropriate action by my Ministry.

After analysing the preliminary reports, my Ministry sets up an Independent Enquiry Committee at the level of the Ministry to look into all cases of reported alleged Medical Negligence.

Following the in-depth independent enquiry and depending on the recommendations of the report, the Ministry refers the case to the Medical Council under delegation of power by the PSC for another enquiry with appropriate recommendation under Regulation 46 of PSC Regulations for further investigation.

In case the Medical Council concludes that there is evidence of Medical Negligence, the case is referred either to the Ministry for disciplinary action or to the Medical Disciplinary Tribunal. The Medical Disciplinary Tribunal will look into the charges of Medical Negligence levelled by the Medical Council. In case the charges of Medical Negligence are proved by the Medical Disciplinary Tribunal, the Medical Council refers the case to the PSC for appropriate action.

As regards part (a) of the question, I wish to inform the House that on 19 April 2018, Mr Tariq Houssen Beekareea has requested explanation from the Regional Health Director of Jawaharlal Nehru Hospital as to why a caesarean section was not carried out on his wife, Mrs Husna Beekareea, instead of a normal delivery on 12 April 2018.

The Regional Health Director carried out a preliminary enquiry on 27 April 2018 and submitted a report to the Ministry which clearly indicated that –

- (i) During admission in ward and at time of labour which was from the 12th to 13th of April 2018, there was no prior indication for Caesarian Section.
- (ii) During labour at 00:40 hours on the said 13th of April 2018, when the cervix was fully dilated, there was no evidence of fetal distress until the spontaneous rupture of membranes which then showed meconium liquor with normal fetal heart beats, that is, 130 beats per minute.
- (iii) Vaginal delivery was expedited as appropriate in such a case and the medical team of the Neonatal Intensive Care Unit was at hand in the labour room to take care of the newborn.
- (iv) At delivery of the baby, the presence of a tight loop of umbilical cord was found around the neck which was released immediately to help delivery. It is to be noted that this condition cannot be known beforehand.
- (v) At 01:15 hours, the baby was delivered and did not cry at birth and was handed over to the Doctor at the Neonatal Intensive Care Unit of Jawaharlal Nehru Hospital (JNH).
- (vi) The baby received all appropriate care by the trained Neonatal Intensive Care Unit (Medical and Nursing).
- (vii) Treatment continued in the Neonatal Intensive Care Unit but the baby's conditions remained poor and unfortunately the baby collapsed, the next day, that is, on 13 of April.
- (viii) Resuscitation was carried out and despite all resuscitative measures, the baby was declared dead.

Despite all the appropriate measures that have been taken, my Ministry has already initiated an in-depth independent enquiry which will start soon.

As regards part (b) of the question, I wish to inform the House that immediately upon assuming function as Minister of Health and Quality of Life, I proceeded to the opening of a

Neonatal Intensive Care Unit (NICU) at Flacq Hospital, that is, in 2017; I think one month after taking over as the Minister of Health and Quality of Life. There are 4 ventilators with facilities for mothers to stay with their babies.

A Neonatal Intensive Care Unit (NICU) will be opening soon at Dr. A. G. Jeetoo Hospital. Infrastructure is ready. Tender for equipment has been launched and training for medical and paramedical staff has already been conducted.

A Tertiary Neonatal Intensive Care Unit (level 4) will be open at Victoria Hospital soon. The infrastructural design is in process.

As far as beds are concerned in Neonatal Intensive Care Units, we have 20 beds, 20 ventilators so far and we are working to increase the number of Neonatal Care Unit in the near future.

Mr X. L. Duval: Madam Speaker, may I ask the hon. Minister whether he is aware that Mr Tariq Beekareea also went to the Police to complain of suspected medical negligence? The hon. Minister does not mention that in his reply.

Dr. Husnoo: Yes, he went to the Police as well. As I mentioned, we have done initial inquiry. We are doing an in-depth inquiry and we will take it up.

Mr X. L. Duval: So, we have a letter of complaint on 19 April. Does the hon. Minister find it normal that three months after – we are in July now – neither Mr Beekareea nor his wife, Mrs Husna Beekareea, have received any single communication from the Ministry to yourself – a copy was sent to the Minister - or from Rose Belle Hospital, except for an acknowledgement of his letter? Does the hon. Minister find it normal that three months after, Mr Beekareea and his wife, are still nowhere and nobody has contacted them?

Dr. Husnoo: I know it is a very difficult case, but before I meet the parents I have to be sure what I am going to tell them. I have to. I have to know what I am going to tell the parents because one thing they are going to ask me: “Is there medical negligence? Why have I not done this? Why have I not done that?” I have done a preliminary inquiry. The other inquiry has already been set up. It is going to start anytime.

Mr X. L. Duval: Three months after, no enquiry has started. Mr Beekareea is a waiter, Madam Speaker, working in a restaurant. He is a *ti-dimoune*. Why has his case been treated differently to one Ms Crouche who had a Fact-Finding Inquiry one week after or even the case of Mr Maigha who, two weeks after the death of his wife, an enquiry started? Why in

the case of Mr Tariq and Mrs Husna Beekareea, three months after, no one has contacted them at all? Except for a letter of acknowledgement from Dr. Goordoyal!

Dr. Husnoo: But I have explained to the hon. Leader of the Opposition! I want to know what is the cause of death, what has contributed to it. That is why! Now, a preliminary inquiry has been done. It is not a question of no inquiry has been done. The second inquiry - in-depth - is going to be done. Why the second one is late? I am going to explain to the hon. Leader of the Opposition! On the second one, there is Dr. Nawoor who is Regional Health Director of Civil Hospital, Dr. Ting who is a Consultant-in-charge at Victoria hospital Obstetrics and Gynaecology and we have Dr. Mrs Poorun who is a Consultant Paediatrician and an AS of the Ministry. The problem is that - why this second in-depth inquiry is late? Because Dr. Ting is involved in another Fact-Finding Committee. That is why the second inquiry is a bit late. But the first one has been done and the second one is going to start anytime.

Mr X. L. Duval: Does the hon. Minister find it normal that, in the preliminary inquiry, three months have gone by, no one has sought to get the views of the mother or the father in this case? No one has asked them! Three months have gone by, a preliminary report has been sent to the Minister without even the Regional Health Director or any single doctor or even the Police recontacting the parents of the child.

Dr. Husnoo: But if I contact the parents, what am I going to tell them? The main questions that they are going to ask me...

(Interruptions)

Now, please!

(Interruptions)

No, I am going to keep my cool, but they should keep their cool as well!

Dr. Husnoo: The first question the parents will ask you: "Has there been negligence?" That is the first question! And what am I going to say? I need to have the facts to tell them. I have done a preliminary inquiry. It shows that there is no evidence of negligence. But I am not happy with that. I am going for a second one as well. But please!

Mr X. L. Duval: Madam Speaker, the lady said she was suffering from diabetes. If she was suffering from diabetes, if that is the case, then automatically the pregnancy becomes high risk and a gynaecologist should have been there. This is one of the questions that could

have been asked of the lady, had someone taken the care to speak to the lady, Madam Speaker?

Dr. Husnoo: The lady suffers from what we call ‘Abormal Oral GTT’. The lady was not on any treatment for diabetes. Not on insulin! Nothing! She was just being treated by a diet. Her follow-up was all right, all along the way, and even until the last minute, she was admitted, the baby fetal cord was normal. There was no problem at all.

Mr X. L. Duval: Madam Speaker, the lady was brought four days earlier in the hospital. For some reasons! If she was in fantastic health, she would not have been brought four days before in the hospital and I understand it is for diabetes. This is why someone should have spoken to her to see what treatment she actually got in the hospital. Madam Speaker, I would like to ask the hon. Minister whether an autopsy was done on the child? It is normal practice overseas when there is a neonatal death of this kind, that permission is sought from the parents, for an autopsy to be made.

Dr. Husnoo: I am sorry! These kinds of cases, we know the conditions of the baby at birth. We know the conditions of the baby. We know the baby had the cord around the neck. We know the conditions when the baby was born. We know the Apgar. We have different modalities to measure and assess the baby’s conditions at birth. When the baby was born, there was no heart rate, no respiration rate. The baby was completely cyanosed. And the baby was limp at birth. No heart rate, no respiration! So, we know the conditions of the baby at birth. What we call the Apgar score was zero out of 10 at one minute. At 5 minutes, it was one out of 10. At 10 minutes, it was 3 out of 10. So, in a case like that where you know there was meconium, the baby passed meconium. When babies are in distress, they pass meconium, they inhale that and get birth asphyxia. And that is why! Why does the hon. Leader of the Opposition want to do a post-mortem in a case like that?

Mr X. L. Duval: Madam Speaker, I am going to circulate a document, Guidelines by the Royal College of Gynaecologists. It says here, Madam Speaker, “Parents should be offered full post-mortem to help explain the cause of death”. This is from the Royal College. Now, maybe the hon. Minister knows better. I am not a doctor. Maybe he knows better, but I think the Royal College of Gynaecologists knows it even better than him.

So, Madam Speaker, I would say that it is a fault and the Minister should admit it and change his procedures, and that in these cases, there should be an autopsy, firstly, Madam Speaker. Can I also ask the...

Madam Speaker: Ask your question!

Mr X. L. Duval: ...because I took the trouble to read this. It is a long document. It also says, Madam Speaker, that parents who suffer this loss often, especially the mother - it is not a political issue...

Madam Speaker: Ask your question! We have understood this.

Mr X. L. Duval: Especially the mother, they go through severe depression. Here we have a letter not answered for three months, not one single psychologist offered to this...

Madam Speaker: Hon. Leader of the Opposition, please do not make a statement. Be brief, and you should also allow time for the hon. Minister to reply. So, ask your question.

Mr X. L. Duval: Madam Speaker, emotional about it! Madam Speaker, why was there no psychological counselling offered to this lady where it is well documented that severe depression is common in these cases?

Dr. Husnoo: I would like to beg to differ with the hon. Leader of the Opposition. You do not have to do a post-mortem when you know the cause the death. If I did not know the cause of death, I would have been the first person to ask for a post-mortem. I usually ask when I am unsure, when I am not happy with the cause of death. But when we know the cause of death, I am sorry. It is not because the Royal College of Obstetricians and Gynaecologists tells me, that I have to do it. No! I do not agree with the hon. Leader of the Opposition. I do not, because I have been treating babies as well for 20 years, I know what I am talking about. You do not need a post-mortem in a case like that.

Mr X. L. Duval: Madam Speaker, he is a doctor, but I stand to what the Royal College of Obstetricians and Gynaecologists says.

Madam Speaker, the presence of meconium, which is excrement, I think, with fluid, the baby was obviously distressed. Why was not the gynaecologist called at that time? When the RMO found meconium in the fluid, why did not he call for a gynaecologist to perform a Caesarean Section?

Dr. Husnoo: The gynaecologist was conducted. At this time, the mother was fully dilated, the cervix was fully dilated, and you want to get the baby out as soon as you can. So,

there was meconium, the fetal heart rate was okay at that particular time. That is why the gynaecologists contacted us and they discussed about the future management in that particular case.

Mr X. L. Duval: There was no gynaecologist present, Madam Speaker. We agree on that.

Dr. Husnoo: But she was getting the care that was needed. Okay.

Mr X. L. Duval: Now, I would not be so quick to defend everyone. Before, you wait for the full preliminary inquiry. The hon. Minister should be careful not to defend them, because there are other things that will come out, I am sure of that. So, he should be careful not to be *juge et partie*.

Madam Speaker: Ask your question, hon. Leader of the Opposition!

Mr X. L. Duval: Madam Speaker, when the baby girl was born - this poor baby - she was born with difficulty breathing. We agree on that. Then, the RMO, I understand, called the paediatrician, Dr. Sungkur - I give his name. This Dr. Sungkur apparently refused to come to the hospital. He did not come to the hospital. He gave, on the phone, the medicine to be given or whatever, and the baby died one hour later. Was Dr. Sungkur on call or not, and in a case like this, where the child is not breathing well, should he not have come out of his bed and come to the hospital?

Dr. Husnoo: I have got the report of the treatment given to the baby...

(Interruptions)

Madam Speaker: Please!

Dr. Husnoo: I have got the report of all the medication given to the baby. As soon as the baby was born, there was meconium. But not in all cases, it is like that. As soon as the baby was born, the baby was taken over by the paediatrician, by the doctors there...

(Interruptions)

By the doctor who is trained in neonatal care.

(Interruptions)

Madam Speaker: Please!

Dr. Husnoo: By the doctors, because you have a lot of RMOs who are trained in neonatal care. He took over the baby. As I told you, the condition of the baby was bad. She put the baby on the ventilator, giving the baby all the treatment required. I have got the report here. So, to state that baby did not get the required care, I do not think it is right. I am not going to defend anybody; I am not here to defend anybody. Because if I was going to defend, I was not going to have any inquiry done. I had one preliminary inquiry and I am going to do a second one. So, I am not defending anybody, but I am giving the fact as it is.

Mr X. L. Duval: Nobody has heard the parents yet.

Madam Speaker, was this doctor on call or was he not on call? What does on call mean? When you call him, he comes! The baby died one hour later. Whatever you gave as medicine, the baby died one hour later, and the doctor on call remained in his bed! Madam Speaker, that doctor should be suspended, should not be allowed to continue practicing.

Dr. Husnoo: I told the hon. Leader of the Opposition that the inquiry is still on, but I reassure him that the baby has got all the treatment that was required. That, I can assure him. But, as I mentioned, the inquiry is still on.

Mr X. L. Duval: Well, I wonder what sort of inquiry, now that the hon. Minister has said that every care was given. What is the point of the inquiry?

Madam Speaker, I am going to come to the inquiry in the final question - one or few things. I am sure the hon. Minister is well aware that 2017 has been a bad year for babies in Mauritius. Stillbirths have increased. From 2015 to 2017, we have 10 more children, 125 to 135 deaths. Also, Madam Speaker, infant deaths have increased from 2016 to 2017 by another large figure, by 10 also, Madam Speaker.

So, what is the reason why, after so many years of falling, even under this Government, as soon as the hon. Minister takes over, it starts increasing again. Has he changed something, or is it just fortuitous?

Dr. Husnoo: I will give the hon. Leader of the Opposition the figures. Early neonatal deaths: in 2012 - 82; in 2013 - 67; in 2014 - 64; in 2015 - 66; in 2016 - 56, and in 2017 - 42. Does he want the perinatal deaths? It has decreased as well. I can give him the figures.

So, you have to see the trend. In mortality, you do not say for one year to one year. He should know better than I do. You see the trend; the trend is downward. Please!

Mr X. L. Duval: I will table, Madam Speaker, a copy of the letter...

Madam Speaker: Is that your final question?

Mr X. L. Duval: No, not yet. We have still time.

Madam Speaker: I know. But you let me know.

Mr X. L. Duval: He was quite fast in his reply.

Madam Speaker, the figures are there. Number of infant deaths: in 2016 - 154, in 2017 - 164. Number of stillbirths registered: 2016 - 127, 2017 - 135. I do not know what prenatal - *pas noyé le poisson*. These are the basic figures, these are the total figures, and these are from his own publication. So, I do not think that can be put into doubt, Madam Speaker. Now, following the death of baby Crouche - we know that got a lot publicity - there was a Fact-Finding Committee. Baby Crouche, from what the papers say, got the wrong injection, medical negligence. Has the hon. Minister, since that time, some months ago, changed anything as regards the procedures for neonatal care after the death, tragic death of baby Crouche?

Dr. Husnoo: Yes, we have had an inquiry, we had a working group on that, and we had looked in what way the baby got the wrong injection. We have looked what medication was given at the pharmacy. We have looked at the ward, how come the nurse, a mistake was made and the baby got the wrong injection. We have looked at all these and measures have been taken to prevent this happening. We have looked at the whole process and we have put it in application as well.

Mr X. L. Duval: What measures did the hon. Minister take?

Dr. Husnoo: I mean we have set the process. We have looked how the medicine was prescribed from the pharmacy; when it reached the ward, what happened; where it is kept, in what condition it is kept, and before the nurse gave the medicine, did she check that particular medicine or was the vial the same. All this has been checked and remedial action has been taken as well.

Mr X. L. Duval: Madam Speaker, I would now like to ask the hon. Minister about the complaints procedure. We know that, for instance, in the UK, each hospital has a Complaints Manager, and he is there to handle complaints. Here, we have seen how the letter has been *dans la nature* for the last three months, no feedback at all given to the parents.

Mr X. L. Duval: Is the hon. Minister going to review the complaints procedure, especially for the *ti-dimoune*? We do not want *ti-dimoune* bashing. We do not want that, especially for the *ti-dimoune*, Madam Speaker.

(Interruptions)

We had the case of Eléonore who was received in the corridor, although his child had died in Madagascar. Now, we have the case of this waiter, and the waiter's wife waiting three months, with no reply from the Minister, although he was copied....

Madam Speaker: Ask your question!

Mr X. L. Duval: What is the hon. Minister going to do to change the complaints procedure and, as I would suggest, have a complaints officer in each hospital and one at his Ministry to handle complaints, which are numerous? I have so many complaints on the hospital system.

Dr. Husnoo: Madam Speaker, the hon. Leader of the Opposition said that he is not going to play politics. But this is playing politics - playing cheap politics *lor malheur dimoune!*

(Interruptions)

Madam Speaker: Hon. Minister, reply to your question!

Dr. Husnoo: Playing cheap politics *lor malheur dimoune!*

(Interruptions)

Non! Rann enn service, to pas kozé par derrière toi!

Madam Speaker: Order! Order, Please! Order!

(Interruptions)

Reply to the question!

Mr X. L. Duval: Madam Speaker....

Dr. Husnoo: Let me ...

Mr X. L. Duval: The hon. Minister has not finished?

Madam Speaker: Hon. Minister, reply to your question!

Dr. Husnoo: Everybody who has any problem, they contact the RHD at the hospital and, from there, we do the inquiry, and if need be, at the level of the Ministry, we do the inquiry as well. Mauritius is good at that, everything that happens, it is easy to go to the paper because somebody is going to exploit it politically. It is going to go on the paper.

(Interruptions)

It is like that, do not say no! It is a fact! We live it every day.

(Interruptions)

Shame on you!

Madam Speaker: No!

Dr. Husnoo: Shame on him who plays politics!

Madam Speaker: Hon. Minister! Please! You address the Chair! You do not have to be distracted.

(Interruptions)

Hon. Minister! Please! You address the Chair! Do not address the Leader of the Opposition! Even if he is trying to distract you, you reply to the Chair, please!

Dr. Husnoo: Yes, Madam Speaker. Some people are trying to play politics here and initiating all sorts of things. There is a way, the parents go to RHD and they will follow it from the RHD.

Mr X. L. Duval: The system is so good, Madam Speaker, that this poor waiter had to come to see the Leader of the Opposition! He got no reply from anyone and nobody received him at all, Madam Speaker. I also understand from the UK that results of the Fact-Finding Committee, committee of inquiries, are given to parents of the diseased and the patient, etc.

still living. Why don't they do that in Mauritius? Why don't they give the results of their inquiries, of their committees and Fact-Finding Committees to the persons concerned? Why is it hidden in Mauritius?

Dr. Husnoo: Madam Speaker, it is not hidden. I have said that we have done a preliminary inquiry. I am going to do a second inquiry. As I have said, I have already got the people who are going to sit on that inquiry but, unfortunately, Dr. Ting was busy with another inquiry and he could not start that particular inquiry.

You may remember the case of a baby who had Penicillin; once I got the result of the Fact-Finding Committee, I called the parents in my office. So, I am not hiding anything. I set up the Fact-Finding Committee when the baby passed away. I called the parents to my office and I explained; I told them about all the facts. I am not hiding behind anything, but I must get the facts properly. Not insinuation! I do not go approximately. I want to get the facts and then I inform the patient because it is very easy in Mauritius *pour exploiter la situation politiquement*.

Mr X. L. Duval: Madam Speaker, the Minister cannot hide anyway, this is Parliament, he will have to answer.

Dr. Husnoo: No, I am not!

Mr X. L. Duval: The only positive result that came out when there was the Fact-Finding Committee was that, in fact, it was headed and manned - if that is the right word - by people outside the service, as the case, on the Fact-Finding Committee on Crouche, which was headed by someone from the State Law Office. I would like to ask the hon. Minister for fairness in this case, whether he will not give also the same sort of justice to the Beekareea family and order a full Fact-Finding Committee like the one on baby Crouche because, in my view, it is the same case of negligence.

Dr. Husnoo: Madam Speaker, as I have explained, I have done a primary investigation. I am doing a second investigation. If need be, I am going to do it, but that depends on what I find. We cannot just for any case, go for a Fact-Finding Committee.

(Interruptions)

Exactement! So many deaths have happened in the last 10 years! On how many cases did they have a Fact-Finding Committee in the last 10 years? They did not do Fact-Finding Committees!

Madam Speaker: Hon. Minister!

(Interruptions)

Dr. Husnoo: If need be, I am going to do it.

(Interruptions)

Non, pas kozé toi, rann moi enn service!

Madam Speaker: Please! Order! Order!

(Interruptions)

Dr. Husnoo: *Hey pas kozé! Pas kozé ! To bizin ena la honte toi avant !*

(Interruptions)

Madam Speaker: Order! Please! Hon. Minister, please! Be to the point, answer the question!

And on this side, I do not want any provocative remarks!

(Interruptions)

Hon. Rutnah, you had a question! Yes!

Mr Rutnah: Thank you, Madam Speaker. Madam Speaker, from facts in the public domain, we know that Mrs Beekareea went to the hospital on 03 April and subsequently on 09 April. Bearing in mind the type of pain that she was complaining, can we know whether echographies were carried out or other sorts of treatment administered to ascertain whether there was a problem with the umbilical cord?

Dr. Husnoo: That would depend on the gynaecologist. Echography, you don't do it! Even if you had done an echography, you would not have known whether there is a cord around the neck at the time of delivery. So, to say that there is no echography - all the investigations would depend. You must have an indication to do an echography. If the doctor did not see the indication to do an echography, why should he do an echography?

Madam Speaker: You have a question?

Dr. Boolell: Thank you, very much, Madam Speaker. It stands to reason that in the light of replies given to the questions put by the hon. Leader of the Opposition and by hon. Rutnah, the Minister is misleading the House.

(Interruptions)

Madam Speaker: No, no!

(Interruptions)

Please! Please! Hon. Dr. Boolell! Hon. Dr. Boolell, you have just said that the Minister is misleading the House.

(Interruptions)

Please, sit down! This is very serious! Would you be able to substantiate it and if you can substantiate it, then you can come with a Motion, otherwise...

Dr. Boolell: Madam Speaker, I will say, outright here, that there has been fetal distress! I maintain that there has been fetal distress.

Madam Speaker: Ask your question, hon. Dr. Boolell!

Dr. Boolell: I will ask the Minister, why is it that he has sat on the findings of the preliminary inquiry instead of coming with a full-fledged independent inquiry?

Madam Speaker: Okay, that is a question.

Dr. Husnoo: Madam Speaker, the hon. Member is saying that there is fetal distress. I know there is fetal distress. That is what was there; we said there was meconium. We said there was a cord around the neck. Was that not fetal distress? I have given the Apgar score which was zero at birth. Is not that fetal distress?

(Interruptions)

Exactement! I have not denied anything!

(Interruptions)

I have not denied anything!

Madam Speaker: No crosstalking please! Be to the point; give the reply! Then the last question goes to the Leader of the Opposition!

Mr X. L. Duval: Madam Speaker, despite meconium fetal distress, no gynaecologist is called; no paediatrician is called despite difficulty in breathing. No autopsy done, no reply to the family for the last three months, Madam Speaker! All this smacks of cover-up as well and, therefore, I would ask...

(Interruptions)

No! I know what I am talking, I can say...

Madam Speaker: Question! Question, please!

Mr X. L. Duval: I can say, but I do not want to abuse the Parliamentary immunity; but I can say. I think there has been cover-up, Madam Speaker, and I would ask the Minister, in the interest of the population - the fact that people are leaving the public service for giving birth...

Madam Speaker: Question!

Mr X. L. Duval: Much less people than previously are using the public hospitals. There is need to restore confidence in the public hospitals, Madam Speaker, and the best thing in the interest of the nation that the Minister can do is to have a full-fledged Fact-Finding Committee so that we know where the faults are, otherwise no one will believe the departmental inquiry that he is organising.

Dr. Husnoo: Madam Speaker, as I said, it is very easy to lay blame. We have done an inquiry. We have not wasted time. I am not the kind of person who is going to hide anything like this. I am not going to hide anything, to put anything in a cover, but...

(Interruptions)

Dr. Husnoo: Let me speak, please!

Madam Speaker: Please!

Dr. Husnoo: Let me talk, please! The hon. Leader of the Opposition spoke.

Madam Speaker: Hon. Leader of the Opposition, please!

Dr. Husnoo: I did not waste time. I have done the inquiry and I was not happy. I have set up a second inquiry. If I wanted to hide anything, why would I set up a second inquiry? That is number one. As far as post-mortem is concerned, I am categoric. That kind of case does not need a post-mortem because I have treated hundreds of cases like that, not just in Mauritius, in UK, and we did not do post-mortem on any of these cases. So, please!

Madam Speaker: Time is over!

(Interruptions)

No! No crosstalking, please!

(Interruptions)

Questions addressed to the hon. Prime Minister! Hon. Uteem!

(Interruptions)

No crosstalking, please! Hon. Uteem, yes!

(Interruptions)

No, crosstalking, I have said!

(Interruptions)

Hon. Roopun!

(Interruptions)

Hon. Minister, please! Hon. Uteem! I have given you the floor!

Mr Uteem: You have to sit down for me to ask, Madam Speaker! I cannot stand up when you are on your feet!

Madam Speaker: Ask your question!

COMMERCIAL BANKS – COMPLAINTS AGAINST

(No. B/551) Mr R. Uteem (First Member for Port Louis South & Port Louis Central) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the commercial banks, he will, for the benefit of the House, obtain from the Bank of

Mauritius, information as to the number of complaints received thereat from members of the public against same, since 2015 to date, indicating if investigations have been carried out thereinto and, if so, indicate the outcome thereof, including the sanctions imposed, if any.

The Prime Minister: Madam Speaker, I am informed by the Bank of Mauritius that during the period January 2015 to March 2018, it has received 4,590 complaints from members of the public, the majority of which relates to fees and charges and repayment of loans.

The Bank of Mauritius investigates all complaints referred to it, and where warranted, conducts special examinations at the banks and most of the complaints addressed to the Bank of Mauritius were unfounded and therefore, did not warrant supervisory actions. In some cases, and to the extent that the law permits, the Bank of Mauritius had directed banks to redress grievances of the complainants to their satisfaction. In a few instances, banks were required to compensate customers. In exceptional circumstances, banks had agreed to give the customers more time and agreed to restructure their loans.

On a half-yearly basis, the Bank of Mauritius holds a Complaints Handling Committee with senior representatives of banks to improve the customer complaint redressal mechanism, and the systems and procedures in relation to complaints. Separately, complaints are taken up at bank-level during trilateral meetings with the Bank of Mauritius, in the presence of Board representatives, Chief Executives and External Auditors. The complaints are also discussed at the Banking Committee where the Chief Executives of the banks are present.

The report entitled “Banking Your Future” has been revived and a Working Group, comprising representatives of the Bank of Mauritius, the Mauritius Bankers Association and commercial banks, is currently looking into the recommendations made in the Banking Your Future Report. The objective of the Working Group is to ensure a fair bank-customer relationship and an inclusive banking sector.

Madam Speaker, I am informed that the Bank of Mauritius has issued directives in certain cases and the banks have collaborated by taking necessary measures.

In the Budget Speech 2018-19, mention was made that the Ombudsperson for Financial Services Bill is being finalised in consultation with all relevant stakeholders. The objective of the Bill is to better protect consumers of banking and financial services.

The Bill provides for the establishment of the Office of the Ombudsperson for Financial Services to deal with complaints received and recommend appropriate remedial

actions. It will cover licensees of the Bank of Mauritius and the Financial Services Commission, as well as Credit Unions.

Mr Uteem: Madam Speaker, under the Banking Act, there was an amendment to allow the Central Bank to request banks to compensate financially complainants. So, may I know from the hon. Prime Minister, out of the 4,590 complaints, in how many instances were banks required to compensate complainants and what was the total amount of compensation paid?

The Prime Minister: Well, Madam Speaker, I have asked for different categories of issues that have been raised with regard to the complaints that have been received at the Bank of Mauritius but, unfortunately, it has to be compiled and out of all those number of complaints, it has been difficult, as at now, to be able to get the relevant information but, with time, I can obviously look into how many cases with regard to compensation.

Mr Uteem: Under section 50(6) of the Bank of Mauritius Act, the Bank of Mauritius may impose administrative penalty on banks which have failed to comply with the guidelines. May I know from the hon. Prime Minister why is it that, up to now, no administrative penalty has been imposed on the Mauritius Commercial Bank which has, and I quote –

“Failed to implement proper international control system and procedure in relation to fixed deposit account held on behalf of National Pension Fund as found by the two hon. Magistrates last year.”

The Prime Minister: Well, from what the hon. Member has stated, I am willing to look into that particular case and, obviously, furnish any relevant explanation with regard to what has been stated. The question relates to how many complaints. I have given the number of complaints. I am not expected to know, Madam Speaker, each and every complaint that has been made. If there is a specific question, obviously, I will be able to answer.

Madam Speaker: Yes, hon. Uteem!

Mr Uteem: There has been a specific question last year and no answer has been answered yet. The hon. Prime Minister just referred to the Ombudsperson for Financial Services. Is he aware that under section 96 of the Banking Act, provision has been made for the appointment of an Ombudsperson for banks and the Minister – that is the Minister of Finance – is supposed to come up with regulations concerning the functions and powers of that Ombudsperson for banks? So, may I know from the hon. Prime Minister why is it that his Ministry has never deemed it fit to set up that Ombudsperson for banks?

The Prime Minister: This is why we have announced in the Budget that we are coming up with a specific legislation with regard to the setting up of the Office of the Ombudsperson with regard to the protection of customers. We are reviewing the law. There are discussions actually ongoing with all the stakeholders and, obviously, when the Bill will be ready, then we will come to Parliament.

Madam Speaker: Hon. Armance!

Mr Armance: Madam Speaker, I have gone through the statement of profit and loss of the Commercial Banks and in regard to the complaints received, there are millions and billions of rupees of profits. I would like to ask the hon. Prime Minister if he will consider having consultation with the Bank of Mauritius and the Commercial Banks to review the very high rate of interest, bank charges, that are imposed by these banks, especially for the low income and middle income families.

The Prime Minister: Well, Madam Speaker, we have a system where the Bank of Mauritius cannot regulate the charges.

(Interruptions)

Yes, you cannot regulate the charges ...

Madam Speaker: Hon. Ameer Meea, don't interrupt the hon. Prime Minister, please!

The Prime Minister: ... that banks impose with regard to the number of their transactions. But the Bank of Mauritius, I am informed, that whenever there are excessive charges, they do draw the attention of the banks and, obviously, ask them to look into the matter and try to remedy so that there is no abuse with regard to those charges and fees. So, as I said, there have been complaints with regard to fees and charges and those issues have been addressed by the Bank of Mauritius.

Madam Speaker: Next question, hon. Bhagwan!

PMO – ADVISERS – APPOINTMENT

(No. B/552) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the Advisers and Senior Advisers attached to the Prime Minister's Office as at to date, he will table a list thereof, indicating in each case, the –

- (a) date and terms and conditions of appointment thereof;

- (b) number of boards of which they are members, including parastatal bodies, Government owned companies or private companies of which Government is a shareholder, and
- (c) remuneration drawn.

The Prime Minister: Madam Speaker, the information requested by the hon. Member is being compiled and will be placed in the Library of the National Assembly.

I wish to point out that the remuneration of Board of Directors of Government-owned companies and their subsidiaries is published in the annual reports of the companies and is, therefore, already in the public domain.

Madam Speaker: Hon. Bhagwan!

Mr Bhagwan: Can we have an assurance from the hon. Prime Minister with regard to the time his officer will table these documents - in one week? One of the Ministers promised here last week that by Friday he was going to table, the hon. Minister of Foreign Affairs, and I am waiting for this Friday, until a Friday when he won't be Minister! So, can the hon. Prime Minister give assurance to the House that very soon this information will be tabled at the National Assembly?

The Prime Minister: Well, let me say that in the past whenever I have answered any question and given a commitment to the House that I will table the relevant information, I have done it before the end of the session and I undertake, obviously, to do it, I say, at the very end of the session, at latest. But, of course, whenever it is ready, we will table it in this House.

Madam Speaker: Hon. Leader of the Opposition!

Mr X. L. Duval: May I just ask the hon. Prime Minister, accounts of the companies, they don't individually tell you what are the benefits, what are the remunerations of the Directors, they are given in bands. The hon. Member asked individually how much is being paid. This is not available from financial statements of companies.

The Prime Minister: What is not available from financial statements of companies will be included in my answer that is going to be tabled.

Madam Speaker: Yes, hon. Bhagwan!

Mr Bhagwan: Can the hon. Prime Minister confirm to the House, the country and the nation - I say the nation, I know why I am saying this - that Mr Maunthrooa who is already facing charges of corruption, I have seen in the papers, is being appointed as a Board member of our National Airline Company, the Air Mauritius? Is this the case? Does the hon. Prime

Minister find it normal that somebody who is facing charges of corruption be a Board member of our national airline, which is an international airline?

The Prime Minister: I have answered this question on numerous occasions, Madam Speaker, and the hon. Member keeps on coming with the same question. Well, we are in a country where there is presumption of innocence; somebody can be prosecuted before a Court of Law, but yet ...

(Interruptions)

Madam Speaker: Please!

(Interruptions)

The Prime Minister: You are talking *dans lot pays*, in your own party, you have somebody who has been convicted under the Prevention of Corruption Act and you are going to give me lessons!

Madam Speaker: Hon. Prime Minister, please, no crosstalking! Now, reply directly to the question! No crosstalking! Please, don't disturb the hon. Prime Minister. Yes, hon. Prime Minister!

The Prime Minister: Madam Speaker, well, obviously, whenever there is a new situation that has arisen, well, I will take measures that are necessary.

Madam Speaker: Hon. Adrien Duval!

Mr A. Duval: Thank you, Madam Speaker. Madam Speaker, can the hon. Prime Minister, at least, reply with regard to part (a) of the question as to the number of Advisers who are working for him under his Ministry to date and then, if he can give the remunerations drawn and the terms of service.

The Prime Minister: The number of Advisers: sixteen.

(Interruptions)

Yes, sixteen! But when you were together with your good friend, Navin Ramgoolam ...

(Interruptions)

Yes, one minute!

(Interruptions)

Madam Speaker: Hon. Adrien Duval, you have asked a question, you should, at least, have the decency to listen to the reply of the hon. Prime Minister.

The Prime Minister: Sixteen Advisers now at the Prime Minister's Office. When the PMSD and the Labour Party were together and when they were supporting their good friend, Dr. Navinchandra Ramgoolam, he had twenty-one Advisers and I don't want to comment on the role of certain Mrs Advisers.

Madam Speaker: Hon. Rutnah!

Mr Rutnah: Thank you, Madam Speaker. Following on the answer that has just been given by the hon. Prime Minister, can I ask whether out of those twenty- one Advisers in the days of the PMSD and the Labour Government, any of those Advisers were working *pro bono*?

The Prime Minister: Well, not according to my information, but *pro bono* may be in other way.

Madam Speaker: Next question, hon. Bhagwan!

ADVISERS – CERTIFICATE OF CHARACTER

(No. B/553) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the advisers, he will state if consideration will be given for the requirement of Police clearance and the production of a Certificate of Character therefrom, prior to the appointment thereof.

The Prime Minister: Madam Speaker, as I stated in my reply to Parliamentary Question B/513 of 11 July 2017, Advisers attached to Ministries and Departments are appointed with the approval of the Prime Minister in accordance with section 89 of the Constitution. Such recommendations for the appointment of Advisers are channelled to the Prime Minister through the Secretary to Cabinet and Head of the Civil Service.

I also pointed out that Advisers are employed to serve on contract on non-pensionable terms. They do not hold permanent appointment. Their contract of employment generally includes a termination clause which provides that Government may terminate the contract in case of misconduct. The termination clause also provides that the Government may, at any time, terminate the employment by giving one month's notice or by paying one month's salary in lieu of notice.

I also wish to point out that the Equal Opportunities Act was amended in 2017 to provide that no person shall be discriminated against for purposes of employment on the grounds that that person has a criminal record which is irrelevant to the nature of the employment for which that person is being considered. Madam Speaker, I therefore reiterate that there is no need to require Advisers to produce a Certificate of Character prior to their appointment.

Madam Speaker: Hon. Bhagwan!

Mr Bhagwan: We have seen in the past and the hon. Prime Minister has given a reply - recently I have asked questions concerning the Ministry of Youth and Sports. Is it normal -

whatever legislation the hon. Prime Minister is making mention of - that we have Advisers who have gone to Court, fined and then employed by Government as Advisers to work with youths, to work in very important sectors where they have been condemned by Courts? Does the hon. Prime Minister find this normal?

The Prime Minister: Well, I can recall that the hon. Member maybe raised the issue of an Adviser who was working at the Ministry of Youth and Sports and in that case action was taken. So, as I said, whenever there is any reason to terminate the contract of an Adviser, obviously, we will act accordingly.

Madam Speaker: Yes, hon. Bhagwan!

Mr Bhagwan: Can I take it from the hon. Prime Minister that Government, he, as Prime Minister, is giving a blank cheque to his Ministers to appoint anybody without going into the antecedent of these people? Is the Prime Minister informing the nation that he is giving carte blanche to his Ministers not to have a preliminary enquiry before employing persons as Advisers, even in his own office?

The Prime Minister: Madam Speaker, we are not giving any blank cheque to any Minister to appoint Advisers. As I stated earlier, the process of appointing Advisers is that there is need to have the approval of the Prime Minister. So, obviously, I take it that any Minister would recommend somebody who is competent and who is required for the purpose of his Ministry and we do have a check on the character of that person, but we do not ask for a Certificate of Character to be produced. But, eventually, as I say, if in case there is any misbehaviour, obviously, we will not tolerate that and we will act accordingly.

Madam Speaker: Hon. Adrien Duval!

Mr A. Duval: Madam Speaker, for a Member of Parliament to become a Member of Parliament, he cannot be convicted for more than twelve months of imprisonment. We know that. But yet, Advisers who are drawing higher salaries than Members of Parliament have no restrictions to be appointed.

May I ask the hon. Prime Minister whether he will come now with a legislation, with an amendment, to make it a case that whenever an Adviser has been convicted, especially of certain offences, then he is not eligible for the post of Adviser?

The Prime Minister: I have answered, Madam Speaker. I said this Government, we are not going to tolerate somebody who has been convicted of an offence and which is in direct conflict with the role and responsibility that he is supposed to assume at the level of a Ministry.

Madam Speaker: Next question, hon. Mrs Perraud!

CARGO HANDLING CORPORATION – SECURITY GUARDS - EMPLOYMENT

(No. B/554) Mrs A. Perraud (First Member for Port Louis North & Montagne Longue) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the Cargo Handling Corporation Ltd., he will, for the benefit of the House, obtain therefrom, information as to the reasons why the security guards who are working thereat on a contractual basis have not been offered employment on a permanent basis thereat.

The Prime Minister: Madam Speaker, I am informed by the Officer in Charge of Cargo Handling Corporation Ltd that the security services were contracted out to a private security firm until 01 May 2014. The contract was terminated following reported cases of pilferage in some containers at the Mauritius Container Terminal. The Cargo Handling Corporation Ltd decided as a temporary measure to hire the services of Police on a daily basis. The Board of Directors at its meeting of July 2015 decided to recruit its own security personnel and review its CCTV System in place. To that effect, 50 Security Guards were recruited in 2016 on a one-year contract in 3 batches as follows –

- (i) 39 Security Guards were recruited on 04 January 2016;
- (ii) 8 Security Guards on 02 May 2016, and
- (iii) 3 Security Guards on 19 July 2016.

Out of the 50 Security Guards, one was dismissed on 15 December 2016 for adverse report and another one resigned on 10 February 2017. The Board of Directors at its meeting of January 2017 decided to renew the contract of employment of the 48 Security Guards on a month-to-month basis.

Madam Speaker, by virtue of section 5(3) of the Employment Rights Act, those Security Guards who have been employed on a month-to-month basis for more than 24 months in a position which is of permanent nature, are deemed to be employed for an indeterminate duration.

In the light of the provisions of section 5(3) of the Employment Rights Act, the Cargo Handling Corporation Ltd may wish to consider regularising the situation of the Security Guards concerned.

Madam Speaker: Hon. Armance!

Mr Armance: Thank you, Madam Speaker. In light of the answer of the hon. Prime Minister, I understand now there are 48 Security Guards. I will make an appeal to him if he can please ask the Cargo Handling to hold a meeting with these Security Guards, just to re-comfort them about their employment, because most of them are very worried. They have families to cater for and they are very worried about their situation. If the hon. Prime Minister can please instruct the Cargo Handling to have a meeting with them and explain them the situation...

Madam Speaker: Okay! No repetition!

Mr Armance: ...at least, if yes or not they are going to be employed.

The Prime Minister: Madam Speaker, I cannot instruct or direct the Cargo Handling Corporation. There is a Board of Directors. I have given my opinion that, according to law itself, they are now deemed to be employed on a permanent basis. So, I take it that in the light of what I have said, the Board of Directors will have to look into the matter and consider and act according to law also.

Madam Speaker: Hon. Rutnah!

Mr Rutnah: Thank you, Madam Speaker. Can the hon. Prime Minister state to the House whether in the past, that is, prior to 2014, any security guards who have worked at the Cargo Handling Corporation were ever offered permanent employment when they were employed on a contractual basis?

The Prime Minister: Well, in fact, I have tried to get some information with regard to past practices. In the past, in fact, there were direct recruitments. The number of those direct recruitments turned out eventually to be confirmed on a permanent basis also. But I do not have the details of how many people were involved.

BANK NOTES - 1000 & 2000 RUPEES – LEGAL TENDER

(No. B/555) Mr V. Baloomoody (Third Member for GRNW & Port Louis West) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the 1000 and 2000 rupees bank notes, he will state and, for the benefit of the House, obtain from the Bank of Mauritius, information as to if they have been made aware that an increasing number of traders and Government-owned companies are refusing to accept same as legal tenders and, if so, indicate if measures are being taken to address the issue.

The Prime Minister: Madam Speaker, I am informed by the Bank of Mauritius that one written complaint has been addressed to the Bank on this subject matter, in addition to complaints received through phone calls and walk-in complainants, informing that some retail outlets and other companies were refusing the Rs2,000 banknote. In some cases, there have been requests for personal details prior to accepting the Rs2,000 banknote.

With regard to the second part of the question, it is the standard practice of the Bank to provide information on banknote security to the public at large. To that effect, the security features for each type of banknote currently in circulation have been prominently highlighted for the past years in a dedicated section on the Bank of Mauritius website as well as in documents shared with commercial banks and the public in general at the time of issue of new banknotes. Furthermore, as from 03 March 2018, the Bank issued a leaflet “Know Our Banknotes” incorporating all security features of the banknotes, both paper and polymer, currently in circulation. To date, some 8,000 informative leaflets have been distributed across the island, including all media. At the request of the Bank of Mauritius, two of the dailies reproduced the security features of the banknotes in full on 20 May 2018.

In addition, visitors to the Bank of Mauritius Museum are briefed on banknote security features. So far, this presentation has been made to some 9,000 visitors. Furthermore, the Bank had launched an intensive campaign, through the Press on 5 May 2018 and the MBC on 17 May 2018, to highlight to the public in general the security features of banknotes currently in circulation in order to help the public to detect fake banknotes. The Bank intervened live during MBC 19:30 news bulletin on 17 May 2018 whereby the various security features of banknotes were highlighted. On 18 May 2018, the Bank issued two Public Notices on Legal Tender and Counterfeit banknotes for public information. Same were posted on the Bank’s website and published in local newspapers. The Bank conducted another awareness exercise on a private radio on 23 May 2018.

The public sensitisation campaign is ongoing.

Madam Speaker: Hon. Rutnah!

Mr Rutnah: Thank you, Madam Speaker. Madam Speaker, given the number of good quality fake notes on the market and also the amount of notes nowadays kept by people who are involved in financial crime, can the hon. Prime Minister consider suggesting to the Bank of Mauritius to actually change these bank notes so that when we have new notes, it will deter people from continuing their criminal activities?

The Prime Minister: Madam Speaker, let me say that I have raised the matter with obviously the Bank of Mauritius. Let us say that, generally, the cases with regard to the fake bank notes are being investigated. Obviously, we are trying to find out how and in what way those presumed accused have come up with manufacturing these bank notes. But I must say that I have been...

(Interruptions)

Madam Speaker: Hon. Bérenger, please! Do not interrupt the hon. Prime Minister.

(Interruptions)

No, but the question has been asked.

(Interruptions)

Order, please!

(Interruptions)

Order! The hon. Member has asked a question, and it is the right of the hon. Prime Minister to reply to the question. I cannot see why he cannot reply to this question.

The Prime Minister: Madame la présidente, je ne sais pas si c'est à en rire ou en pleurer.

(Interruptions)

Ploré oui ! Moi ki bizin ploré, zot p riyé !

(Interruptions)

Ki bouré ?

(Interruptions)

Ki l'Arabie Saoudite?

Madam Speaker: No. Hon. Bérenger, can I ask you to withdraw that word, which is unparliamentary. The word 'bouré' cannot be used in this Parliament. Now...

(Interruptions)

No. So, you withdraw that word.

(Interruptions)

Are you withdrawing that word?

Mr Bérenger: I have withdrawn! You did not hear?

Madam Speaker: No. I did not hear you saying that you withdrew.

Mr Bérenger: I withdrew!

Madam Speaker: Okay. You withdraw, but please bring down your tone.

(Interruptions)

Allow the hon. Prime Minister to continue!

(Interruptions)

The Prime Minister: *La tête pe alé.* I do understand that...

Madam Speaker: Hon. Prime Minister, reply to the question!

The Prime Minister: Yes, Madam Speaker, I am informed that the number of fake bank notes in circulation that have been reported so far, is not in terms of comparison, for example, with the UK, where there are 110 bank notes per million of genuine bank notes in circulation. In the Euro area, it amounted to 50 bank notes per million, and in Mauritius, it is 15 bank notes per million. But that does not mean to say that we do not have to act. Obviously, if the Bank of Mauritius, in due course, feels that there are other actions to be taken, there will be consultations, and then we will see.

Madam Speaker: Time is over! Hon. Members...

(Interruptions)

What is it?

Dr. Boolell: On a point of order, Madam Speaker.

Madam Speaker: Yes, the hon. Member has a point of order.

Dr. Boolell: I know you have no control over the replies given by the hon. Prime Minister, but he has made an abuse of his privileged time. He could have circulated some of his replies. He deliberately chose not to do so, just to escape replying to the question that has been...

(Interruptions)

Madam Speaker: Order! Order! Hon. Dr. Boolell, let me say that for each and every question, I keep a timing of the question; at what time the question starts and at what time it ends. Whenever there is a question of national interest, I give more time. But, as you know,

according to the Standing Orders, the Speaker has the right to give as much time as he or she wants depending on the relevancy of the question, and this is it.

Hon. Members, the Table has been advised....

(Interruptions)

Order, please! Order!

(Interruptions)

Hon. Baloomoody!

(Interruptions)

Can we have some order, please?

(Interruptions)

Order! Order, I said!

(Interruptions)

Order on this side!

(Interruptions)

Does the hon. Member have a point of order?

Mr Bhagwan: You are not shouting at me again!

Madam Speaker: No, hon. Bhagwan, please do not make remarks which are not warranted. I would not also accept that people shout at me. That is not acceptable. So, if...

Mr Bhagwan: I have never shouted at you.

Madam Speaker Please sit down!

(Interruptions)

No, I am not arguing with you, but I do not want remarks which are unwarranted. You had a point of order; I would listen to your point of order.

(Interruptions)

Hon. Dr. Boolell, please!

(Interruptions)

The hon. Member has a point of order. Please hon. Dr. Boolell! Who wants to take the point of order? The hon. Member is giving the floor! Okay.

Dr. Boolell: Madam Speaker, you are the Chairperson of the Parliamentary Caucus on Gender, and you are not assuming your responsibility fully. This question...

(Interruptions)

Madam Speaker: Hon. Dr. Boolell! Please sit down!

(Interruptions)

Dr. Boolell: This question is relevant...

(Interruptions)

Madam Speaker: Hon. Dr. Boolell, I would not allow you to make comments on the Chair. Obviously...

(Interruptions)

Order, please!

(Interruptions)

Order! Hon. Dr. Boolell, you are defying the authority of the Chair, and I would not accept...

(Interruptions)

Please sit down! Let me tell you, if you go to the Standing Orders, then you will see that the discretion of the Speaker in calling Members to address the Assembly cannot be challenged. I give each one of you a fair chance to ask questions, and it is the discretion of the Chair to see to it that questions are answered. It is the discretion of the Chair also to see to it that all Members are given a fair chance to ask questions on any relevant subjects.

So, can you please withdraw the words that you have said, because all questions which have been taken have nothing to do with the Gender Caucus. Excuse me, nothing to do with the Gender Caucus! Can you please withdraw what you have said.

Dr. Boolell: Madam Speaker, I made...

(Interruptions)

Let me...

Madam Speaker: Hon. Dr. Boolell, please sit down! I have already given my ruling on what you have said. All the questions which have been taken had nothing to do with the Caucus and you are defying the authority of the Chair. I have asked you to withdraw what you said, and if ever you withdraw, the matter is settled. If you do not want to withdraw, then I will have to take action.

Dr. Boolell: Madam Speaker, I have made a statement of fact in the light of what you said, that this is an issue of national and international interest. We are...

(Interruptions)

Madam Speaker: Sit down, hon. Dr. Boolell!

(Interruptions)

Hon. Dr. Boolell, please sit down!

(Interruptions)

Would you sit down? Hon. Dr. Boolell, if I understand, you are not withdrawing what you said. You are still defying the authority of the Chair. Are you defying the authority of the Chair by saying what you have said? This is it, and I will ask you to withdraw. If you do not want to withdraw, I will have to take action. I have been very patient.

Dr. Boolell: I have stated nothing that is unparliamentary.

Madam Speaker: Hon. Dr. Boolell, I order you out. I order you out!

(Interruptions)

I order you out, hon. Dr. Boolell!

(Interruptions)

Hon. Dr. Boolell!

Dr. Boolell: I have stated...

Madam Speaker: No, I have ordered you out! Hon. Dr. Boolell...

(Interruptions)

Once more, I have ordered you out. It is the last time I am telling you that I have ordered you out. Okay?

(Interruptions)

No. I suspend the sitting.

(Interruptions)

At 12.47 p.m. the sitting was suspended.

On resuming at 1.14 p.m. with Madam Speaker in the Chair.

Madam Speaker: Please be seated.

(The Opposition Members left the Chamber)

Madam Speaker: Since the hon. Member has already left and Prime Minister's Question Time is over, I suspend the sitting for one and a half hours!

At 1.15 p.m., the sitting was suspended.

On resuming at 2.51 p.m. with Madam Speaker in the Chair.

Madam Speaker: Hon. Rughoobur!

WETLANDS – SURVEY

(No. B/560) Mr S. Rughoobur (Second Member for Grand'Baie & Poudre d'Or) asked the Minister of Agro-Industry and Food Security whether, in regard to the wetlands, he will state -

- (a) if a survey thereof has been undertaken and a list drawn and, if so, give the said list, indicating if same has been amended over the past ten years, and
- (b) where matters stand as to the proposed introduction of a Wetlands Bill in the House.

Mr Seeruttun: Madam Speaker, I am informed that a study on Environmentally Sensitive Areas (ESA) was commissioned in January 2008 by the then Ministry of Environment and National Development Unit whereby a survey of wetlands was undertaken to locate, delineate, map and characterise the physical, biological and ecological characteristics of Mauritian Wetlands. 203 coastal marshlands and more than 600 upland marshes were surveyed. The list of coastal marshlands and upland marshes is being tabled.

The bulk of the coastal marshlands are located in Grand'Baie, Post Lafayette/Roches Noires, Wolmar and Belle Mare/Palmar areas. Upland marshlands are principally found in the Plaines Wilhems district, particularly within the Black River Gorges National Park and

adjoining State Forest lands. Upland marsh, lakes and reservoirs are almost exclusively found on State land in some of the more remote areas of the island.

As regards part (a) of the question, the said list has not been amended over the past ten years.

However, I am also informed that under a UNDP/Global Environment Facility (GEF) funded project namely, “Mainstreaming Biodiversity in the Management of the Coastal Zone of the Republic of Mauritius” which is being implemented by the Ministry of Ocean Economy, Marine Resources, Fisheries and Shipping, there is one component of the project which includes the review and update of the list of Environmentally Sensitive Areas, including all coastal and upland wetlands. A tender exercise is being carried out presently by the UNDP to recruit the team of consultants. The tender exercise is at evaluation stage.

Regarding part (b) of the question, the National Ramsar Committee in consultation with all stakeholders concerned, worked out a draft Wetlands Bill which was submitted to the State Law Office. Subsequently, the Ministry was advised that as a large number of the wetlands concerned are found on private properties, there are legal and constitutional issues that will imperatively arise from the regulation of wetlands found on private property. There may also be a problem of enforcement and implementation of such a law.

Furthermore, not all the wetlands in the State of Mauritius (including Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chagos Archipelago and in any other island comprised in the State of Mauritius) have been identified or cannot be defined in view of the practical difficulties to do.

Under the same UNDP/GEF funded projects which I mentioned earlier, there is another component for the review and finalisation of the draft Wetlands Bill to address all the legal and constitutional issues raised. An international tender exercise has been launched to recruit consultants for this exercise also.

Madam Speaker: Hon. Rughoobur!

Mr Rughoobur: Thank you, Madam Speaker. This issue of wetland is a very important issue, especially in the north, in my Constituency Grand’Baie/Poudre d’Or. The hon. Minister is fully aware. He has been making site visits along with colleagues. Replying to a Question that I asked on 28 April 2015, the hon. Minister said, I quote –

“I shall request the National Ramsar Committee to compile a list of all projects for which Ramsar clearance has been granted and the extent of wetlands developed for residential and industrial purposes during the last 10 years.”

May I know from the hon. Minister what is the status and what has been the findings of this investigation conducted?

Mr Seeruttun: In fact, I have requested a list to be compiled. From the period 2015 to date, we have a list that had already been compiled whereby all the requests made to the Committee are now on that list.

As far as I have been informed, there were 37 cases that were referred to the Ramsar Committee and out of those 37 cases that were referred to that Committee, five were not recommended and two of them are still being evaluated.

Mr Rughoobur: Madam Speaker, I have a supplementary. In reply to the same Parliamentary Question, the hon. Minister also stated that the number of development permits issued by Local Authorities over the past ten years in respect of projects on wetlands, were also being compiled. May I know from the hon. Minister whether there has been an investigation carried out or what is the status?

Mr Seeruttun: Madam Speaker, I am informed that that list is at the level of the Local Authorities for projects that have been given the permit to be developed.

As far as the Ramsar Committee is concerned, they give clearance once all the conditions that are laid down are being adhered to. Onwards, once the clearance is given, the Committee has not got the power to go and verify whether the conditions are being adhered to. But if ever there are cases that the hon. Member is aware of, probably I will ask him to provide them to me. I will probably look into that as well.

Madam Speaker: Last question, hon. Rughoobur!

Mr Rughoobur: Thank you, Madam Speaker. Coming to the second part of my question on the Wetlands Bill, the hon. Minister mentioned about the appointment of a Consultant to review the draft. From records that I have, I see that there was a plan for the completion of this drafting, I think, which was scheduled to be completed next year in June 2019, which is a good thing. I wanted to know from the hon. Minister, at least, by July 2018, as per the plan, the agreed work plan and the inception report were to be ready, whether it is okay.

Madam Speaker: You are being too long, hon. Member. Please ask your question!

Mr Seeruttun: In fact, as I said, Madam Speaker, there was a draft Bill that was prepared by my Ministry and that was submitted to the State Law Office and then there were some issues with regard to constitutional rights of private owners. We were asked to relook into the provisions of that Bill. As I said, there is a project which is being funded by the UNDP and the GEF whereby one component under that project is to come up with the Bill. So, all these will be taken up within that project whereby external expertise is being sought for.

Madam Speaker: Next question, hon. Rughoobur!

NATIONAL RAMSAR COMMITTEE - COMPOSITION

(No. B/561) Mr S. Rughoobur (Second Member for Grand'Baie & Poudre d'Or) asked the Minister of Agro-Industry and Food Security whether, in regard to the National Ramsar Committee, he will, for the benefit of the House, obtain therefrom, information as to the -

- (a) composition thereof, and
- (b) names, qualifications and experience of the Officer-in-Charge thereof.

Mr Seeruttun: Madam Speaker, with your permission, I am going to reply to both PQs B/561 and B/562 together as they are closely related.

I wish to inform the House that Mauritius is a Contracting Party to the Ramsar Convention since 2001 and my Ministry is the Focal Ministry for the Convention.

The National Ramsar Committee is an Advisory Committee which was set up in January 2004 by a decision of Cabinet to assist in the implementation of the Ramsar Convention.

The National Ramsar Committee is a non-statutory committee and it has no administrative or executive authority.

There is no Officer-in-Charge or staff attached to the Committee.

The Committee is chaired by the Permanent Secretary of my Ministry or his representative and comprises representatives of various Ministries and Departments as follows -

- (i) Director, National Parks and Conservation Service of my Ministry;

- (ii) Forestry Service of my Ministry;
- (iii) Ministry of Social Security, National Solidarity and Environment and Sustainable Development;
- (iv) Ministry of Ocean Economy, Marine Resources, Fisheries and Shipping;
- (v) Ministry of Housing and Lands;
- (vi) Ministry of Local Government and Outer Islands;
- (vii) Ministry of Education, and Human Resources, Tertiary Education and Scientific Research;
- (viii) University of Mauritius;
- (ix) Mauritius Institute of Education;
- (x) Central Water Authority, and
- (xi) Water Resources Unit

The Committee also comprises representatives of two NGOs involved in wetlands conservation. Other Government institutions are co-opted as and when needed.

No member and/or staff of the Committee has attended any official mission.

However, I wish to point out that the Ramsar Convention holds its Conference of Parties every three years and Mauritius, being a Contracting Party to the Convention, the Focal Point or delegated officials attend the Conference of Parties. All the costs of participation are borne by the Convention.

The last Conference of Parties was held in 2015 in Uruguay and was attended by the former Director, National Parks and Conservation Service.

Madam Speaker: Hon. Rughoobur!

Mr Rughoobur: Let me thank the hon. Minister for the reply which is actually very clear. I wanted to know from the hon. Minister, among the five greatest difficulties in the National Reports that they elaborate every three years, one issue that they mentioned was lack of capacity for proper evaluation and restoration of existing wetlands for proper conservation and use. This issue of capacity building, may I know from the hon. Minister – it is in the report – how is this being addressed as he mentioned that there is no such structure? Is he looking forward to put in place a proper structure?

Mr Seeruttun: Well, Madam Speaker, at the level of the Committee there is no such staff attached to that Committee as I just mentioned, but at the level of Ministry itself, which is responsible for the conservation of all the wetlands, we have a policy to address these issues and we do have staff that are being trained or being sent on training to be prepared to address these kinds of problems.

Madam Speaker: Yes, hon. Rughoobur!

Mr Rughoobur: I am laying emphasis on this capacity building because of the important issue - the hon. Minister is fully aware - about the strategic plan 2016/2024 where it is mentioned, let me quote –

“(i) the wise use of all wetlands through national plans, policies and legislation, management actions and public education.”

Quite an enormous load of work is expected from this structure. So, this is basically the reason why to implement this strategic plan, the hon. Minister possibly might consider, I mean, reviewing the capacity at the level of the Ramsar Committee.

Mr Seeruttun: That is why, Madam Speaker, there was the need to have this Bill. All is going to be taken care of in that particular Bill. As I mentioned, the reason why we could not come forward with that Bill earlier was because there were some issues that had to be addressed to. But now that we have sought the services of experts to come up with the drafting of the Bill, hopefully those issues will be taken up and we will come up with all that in the Bill that is going to be presented to this House.

Madam Speaker: Hon. Rughoobur, last question!

Mr Rughoobur: I have a last supplementary, Madam Speaker. It is in relation to the National Report itself. I have seen all the stakeholders involved in the elaboration of that National Report, which is extremely important and which has been submitted, I think, in March 2018 for the Convention that is scheduled for this year. I have seen that among the stakeholders, the Ministry of Local Government, the Local Authorities are very important stakeholders, they have not been consulted. May I request the hon. Minister to probably look into it in the elaboration of these National Reports which are extremely important and if he could possibly see with them as to why certain important stakeholders were not involved?

Mr Seeruttun: Well, as I said in my reply, Madam Speaker, there are representatives of the Ministry of Local Government and also the Ministry of Housing that are full-fledged

members of that Committee. So, I believe they did take cognizance of that report. In any way, I will look into that.

NATIONAL RAMSAR COMMITTEE – MEMBERS - OFFICIAL MISSIONS

(No. B/562) Mr S. Rughoobur (Second Member for Grand' Baie & Poudre d'Or) asked the Minister of Agro-Industry and Food Security whether, in regard to the National Ramsar Committee, he will, for the benefit of the House, obtain therefrom, information as to the number of official missions effected by members and/or staff thereof over the past ten years, indicating the total expenditure incurred in terms of air tickets, accommodation, *per diem* allowances and related expenses and table copy of the evaluation reports thereof.

(Vide reply to PQ No. B/561)

Madam Speaker: Hon. Members, the Table has been advised that PQ A/12 which does not require an oral answer in regard to the project to replant corals where they have been depleted or seriously damaged, will be replied by the hon. Minister of Ocean Economy, Marine Resources, Fisheries and Shipping.

The Table has also been advised that the following PQs have been withdrawn: B/575, B/576, B/577, B/563, B/564, B/565, B/578, B/586, B/587, B/588, B/589, B/590, B/596, B/597, B/570, B/572 and B/573. Next question, hon. Leopold!

COMMISSIONER OF POLICE – OVERSEAS MISSIONS

(No. B/563) Mr Osman Mahomed (Third Member for Port Louis South & Port Louis Central) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to the Commissioner of Police, he will, for the benefit of the House, obtain therefrom, information as to the overseas missions/conferences/seminars and workshops attended by him since his assumption of office to date, indicating in each case, the

-

- (a) country visited;
- (b) composition of the delegation, and
- (c) cost incurred in terms of air tickets, *per diem* and other allowances.

(Withdrawn)

CEB – ELECTRICITY – PEAK DEMANDS

(No. B/564) Mr Osman Mahomed (Third Member for Port Louis South & Port Louis Central) asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to electricity, he will, for the benefit of the House, obtain from the Central Electricity Board, information as to the peak demands therefor and associated sales thereof in respect of each of the years 2012 to 2017, indicating the available explanations, if any, of the trend shown.

(Withdrawn)

CEB – LIQUEFIED NATURAL GAS – STORAGE FACILITIES

(No. B/565) Mr Osman Mahomed (Third Member for Port Louis South & Port Louis Central) asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the production of electricity from Liquefied Natural Gas, he will, for the benefit of the House, obtain from the Central Electricity Board, information as to the required storage facilities for the re-gasification plants, indicating the proposed locations and associated costs thereof.

(Withdrawn)

CEB - COMBINED CYCLE TURBINE POWER PLANT - FEASIBILITY STUDY

(No. B/566) Mr Osman Mahomed (Third Member for Port Louis South and Port Louis Central) asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the Project for the Design and Build of a Combined Cycle Turbine Power Plant at Fort Georges, he will, for the benefit of the House, obtain from the Central Electricity Board, information as to the -

- (a) main recommendations of the feasibility study carried out prior to the launching of the bid exercise therefor and table copy thereof;
- (b) estimated total investment required therefor and the mode of financing thereof, and
- (c) production capacity and production cost per kw/hr thereof, phase-wise?

(Withdrawn)

LE BOUCHON – MV BENITA - SHIPWRECK

(No. B/570) Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien) asked the Minister of Ocean Economy, Marine Resources, Fisheries and Shipping whether, in regard to the shipwreck of the MV Benita at Le Bouchon, he will state the amount of compensation –

- (a) recovered by the Government of Mauritius, and
- (b) paid to the fishermen of the region as at to date.

(Withdrawn)

NATIONAL TRANSPORT AUTHORITY - FITNESS CENTRES

(No. B/571) Mr D. Ramful (Third Member for Mahebourg and Plaine Magnien) asked the Minister of Public Infrastructure and Land Transport whether, in regard to the private fitness centres, he will, for the benefit of the House, obtain from the National Transport Authority, information as to if consideration is being given for the regionalization thereof and, if so, indicate the reasons therefor.

(Withdrawn)

CANE CULTIVATION – ABANDONED LAND – FUND EARMARKED

(No. B/572) Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien) asked the Minister of Agro-Industry and Food Security whether, in regard to the Rs50 m. earmarked to bring back the 500 hectares of abandoned land under cane cultivation in fiscal year 2017/2018, he will state the -

- (a) amount of funds used as at to date, giving a breakdown thereof, and
- (b) number of hectares of land –
 - (i) brought back under cane cultivation, giving details thereof, and
 - (ii) standing in an abandoned state as at to date.

(Withdrawn)

AFRICA – EXPORTS – TRADE AND INVESTMENT POLICIES

(No. B/573) Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien) asked the Minister of Foreign Affairs, Regional Integration and International Trade whether, in regard to our total exports to Africa, he will state the –

- (a) percentage of the annual growth thereof over the period 2006 to 2011, compared to the period 2012 to 2017, and
- (b) trade and investment policies of Government to increase exports to Africa.

(Withdrawn)

NATIONAL HANDBALL FEDERATION - SUSPENSION

(No. B/575) Mr F. Quirin (Fourth Member for Beau Bassin & Petite Rivière) asked the Minister of Youth and Sports whether, in regard to the National Handball Federation, he will, for the benefit of the House, obtain therefrom, information as to if it has been suspended by the International Handball Federation and, if so, indicate the reasons therefor.

(Withdrawn)

NATIONAL ANTI-DOPING ORGANISATION - OPERATIONAL

(No. B/576) Mr F. Quirin (Fourth Member for Beau Bassin & Petite Rivière) asked the Minister of Youth and Sports whether, in regard to the National Anti-Doping Organisation, he will state if same is actually operational and, if not, why not.

(Withdrawn)

MAURITIUS SOCIETY OF AUTHORS - GRANT

(No. B/577) Mr F. Quirin (Fourth Member for Beau Bassin & Petite Rivière) asked the Minister of Arts and Culture whether, in regard to the Mauritius Society of Authors, he will, for the benefit of the House, obtain therefrom, information as to the –

- (a) sums allocated thereto as annual grant over the past three financial years, indicating the total amount thereof used for administrative purposes, including in terms of Board and Committee fees, and
- (b) total sums paid to legal advisors since January 2015 to date, indicating the cases to which they relate.

(Withdrawn)

NATIONAL HERITAGE FUND BILL - INTRODUCTION

(No. B/578) Mr T. Henry (Fourth Member for Mahebourg & Plaine Magnien) asked the Minister of Arts and Culture whether, in regard to the proposed introduction of a new National Heritage Fund Bill in the House, he will state where matters stand.

(Withdrawn)

STC - FOSSIL FUELS - IMPORTATION

(No. B/586) Mr J. C. Barbier (Fourth Member for GRNW & Port Louis West) asked the Minister of Industry, Commerce and Consumer Protection whether, in regard to fossil fuels, he will, for the benefit of the House, obtain from the State Trading Corporation, information as to the volume thereof imported category-wise, giving details of the C.I.F. price per litre in respect of each consignment thereof over the past three financial years.

(Withdrawn)

ROCHE BOIS - ALLEE TAMARIN – TRAFFIC CONGESTION

(No. B/587) Mr J. C. Barbier (Fourth Member for GRNW & Port Louis West) asked the Minister of Public Infrastructure and Land Transport whether, in regard to Allée Tamarin, in Roche Bois, he will, for the benefit of the House, obtain from the Road Development Authority, information as to if consideration will be given for the widening thereof to facilitate vehicular traffic and pedestrians use thereof.

(Withdrawn)

FREE BUS TRANSPORT SCHEME - PUBLIC TRANSPORT VEHICLES - GRANT

(No. B/588) Mr J. C. Barbier (Fourth Member for GRNW & Port Louis West) asked the Minister of Public Infrastructure and Land Transport whether, in regard to the Free Bus Transport Scheme, he will, for the benefit of the House, obtain from the National Transport Authority, information as to the quantum of the grant paid to public transport vehicles in terms of –

- (a) diesel, and
- (b) free transportation to students and senior citizens.

(Withdrawn)

NATIONAL PENSION FUND – INVESTMENT

(No. B/589) Mr J. C. Barbier (Fourth Member for GRNW & Port Louis West) asked the Minister of Social Security, National Solidarity, and Environment and Sustainable Development whether, in regard to the National Pension Fund, he will, for the benefit of the House, obtain therefrom, information as to the amount of funds collected over the past ten financial years, giving details thereof on a yearly basis, indicating the number of local and foreign institutions, if any, in which same have been invested, and –

- (a) give details of dividends reaped and paid thereto, if any, or of loss incurred, giving details thereof, and
- (b) indicate the updated financial situation thereof.

(Withdrawn)

SAFE CITY PROJECT - SETTING UP

(No. B/590) Mr K. Ramano (Third Member for Belle Rose & Quatre Bornes) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in

regard to the Safe City Project, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to –

- (a) if bids were launched prior to the signing of the contract therefor;
- (b) the terms and conditions of the guarantee given by the Government of Mauritius to the loan contracted by Mauritius Telecoms, and
- (c) who will be responsible for the collection and processing of information following the setting up thereof.

(Withdrawn)

RODRIGUES - POLICE CONSTABLES J. S. & J. C. P. - COMPENSATION

(No. B/591) Mr J. Leopold (Second Member for Rodrigues) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to late Police Constables J. S. and J. C. P., who were posted at the National Coast Guard and who perished in a search and rescue operation in Rodrigues, on or about 13 May 2007, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to where matters stand as to the payment of the relevant compensations to the respective families thereof.

Sir Anerood Jugnauth: Thank you. Madam Speaker, I am informed by the Commissioner of Police that compensations to the heirs of late Police Constables J. S. and late J. C. P., have been effected respectively as follows –

- (a) J. S. – Rs1,494,942.30, and
- (b) J.C.P. – Rs1,031,927.81

Madam Speaker: Next question, hon. Hurreeram!

INDIAN OCEAN ISLAND GAMES 2019 - SITES - RENOVATION

(No. B/592) Mr M. Hurreeram (First Member for Mahebourg & Plaine Magnien) asked the Minister of Youth and Sports whether, in regard to the Indian Ocean Island Games 2019, he will give the list of the seventeen sites earmarked for renovation, indicating in each case, the –

- (a) estimated cost, and
- (b) duration of works thereof.

Mr Toussaint: Madam Speaker, I am tabling a list of 17 sites that would be upgraded by the association for the upgrading of India Ocean Island Games Infrastructure (IOIGI). The

estimated cost for each site, the intended date for start of construction as well as the expected date for completion of works are mentioned therein.

Madam Speaker: Yes, hon. Hurreeram!

Mr Hurreeram: Thank you, Madam Speaker. Can the hon. Minister inform the House whether the relevant Sports Federations have been apprised of the time frame regarding renovation works?

Mr Toussaint: Yes, Madam Speaker, on 29 May 2018, I chaired a meeting with all Sports Federations concerned with the IOIG 2019 to take stock of the renovation and the alternative sites where athletes may train during closure of Sports Infrastructure.

Madam Speaker: Yes, hon. Rutnah!

Mr Rutnah: Thank you, Madam Speaker. Can the hon. Minister inform the House whether there is a designated committee that is looking after the budget of all these works to ensure that there is not going to be a budget overrun?

Mr Toussaint: Yes, Madam Speaker, as I have stated in my reply, the IOIGI, the association for the upgrading of Indian Ocean Island Games Infrastructure is responsible for all the renovation and also to see to it that the budget is respected.

Madam Speaker: Next question, hon. Tarolah!

PLAINE VERTE POLICE STATION - POLICE OFFICERS

(No. B/596) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to the Plaine Verte Police Station, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to the number of Police Officers posted thereat.

(Withdrawn)

AUTO/MOTORCYCLE PRACTICAL TEST – PASS RATE

(No. B/597) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to the new practical auto/motorcycle test, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to –

- (a) the number of auto/motorcycle riders who have –
 - (i) paid the required fees and applied therefor;
 - (ii) postponed/cancelled or did not attend same, and

- (iii) underwent same, indicating the age thereof;
- (b) the percentage pass rate thereof, and
- (c) if the site and the new procedures therefor have been tested, indicating if they comply with standard norms.

(Withdrawn)

TROU D'EAU DOUCE - COMMUNITY CENTRE

(No. B/599) Mr K. Tarolah (Third Member for Montagne Blanche & GRSE)

asked the Minister of Gender Equality, Child Development and Family Welfare whether, in regard to the Community Centre at Trou d'Eau Douce, she will state if it is operational and, if not, why not, indicating if her Ministry had provided any alternative venue to the members thereof to carry out their activities.

Mrs Jadoo-Jaubocus: Thank you, Madam Speaker. I am informed by the Sugar Industry Labour Welfare Fund that, since January 2014, the Community Centre at Trou d'Eau Douce is being used as a Community Health Centre for the delivery of health services, which is a priority service to the inhabitants of the locality.

I am, in fact, given to understand that the building that was accommodating the Trou d'Eau Douce Community Health Centre is an old colonial type building which has been found out, after a survey, to be in an advanced stage of decay and that the health service that was being provided thereat, had to be relocated temporarily. There had been arrangements made to ensure that we find an alternative building and several exercises have been carried out to ensure that we do obtain that, but it has not been fruitful and we have sent a recent letter to the Ministry of Health and Quality of Life to request them to look anew for premises and to review the specifications to ensure that we do obtain an alternative site.

Regarding an alternative venue for the community use, I am also informed that no indoor activities were being carried out in the Community Centre, in the first place. However, outdoor activities, such as volleyball, *pétanque* and services such as the renting of tarpaulins and chairs are still being maintained at the centre.

Activities for the benefits of the members, such as get-together, meetings and other programs in the context of, for instance, Elderly Day, Parents Day, Music Day etc. are currently being organised at the Trou d'Eau Douce Recreational Centre which belongs to the District Council of Flacq.

Madam Speaker: Hon. Tarolah, can I just ask you one clarification? You have just asked PQ B/599. Did you ask another question before that and what was that question? The question which was replied by the hon. Minister of Youth and Sports?

(Interruptions)

Okay, thank you. Next question!

MELROSE GOVERNMENT SCHOOL - SWIMMING POOL

(No. B/600) Mr K. Tarolah (Third Member for Montagne Blanche & GRSE) asked the Minister of Education and Human Resources, Tertiary Education and Scientific Research whether, in regard to the proposed construction of a Learning Swimming Pool Project at the Melrose Government School, she will state the expected start and completion dates thereof.

Mrs Dookun-Luchoomun: Madam Speaker, on 23 January 2017, *La Natation Scolaire* Project was launched by the Prime Minister. This project is being implemented by my Ministry in collaboration with the Mauritius Sports Council. About 1,448 pupils have participated in it last year. The main objective of the project is to teach swimming to pupils of Grade 4 so as to prepare them for safe swimming. This, with a view to reducing drowning and instilling survival skills in our young generation. We intend to cover all school-going pupils in the years to come. My Ministry has decided to construct learning swimming pools in four primary schools, one in each zone so as to ensure that a larger number of pupils benefit from the program.

I am informed that for the Learning Swimming Pool at Melrose Government School, invitation for bids for construction works has already been launched on 26 June 2018 with closing date being 02 August 2018. Works expected to start in September/October 2018 and the expected completion date is March/April 2019.

I am also pleased to state that three of the tenders for the construction of swimming pools have already been launched.

Madam Speaker: Hon. Tarolah!

Mr Tarolah: Thank you, Madam Speaker. Can the hon. Minister inform the House whether arrangements will be made for other schools students to use the swimming pool?

Mrs Dookun-Luchoomun: Certainly, as I have just said, we are trying to make sure that all school-going students do get the chance of getting this training and the swimming pools would be opened to other primary schools of the region. We are starting this year with

the four swimming pools, next year we will be having additional pools in areas where we feel that there is a demand.

Mr Tarolah: Will this amenity be available for the general public to use after school hours?

Mrs Dookun-Luchoomun: The sports facilities present in the secondary schools are normally available for people in the region, but for the primary schools, the type of swimming pools that we are putting in there is mainly for students, for school-going pupils. We are going to open it to the primary schools of the region. So, other primary schools students will be able to come in for training, but not really open to the public.

Madam Speaker: Next question, hon. Tarolah!

CAMP DE MASQUE - COMMUNITY HEALTH CENTRE - CONSTRUCTION

(No. B/601) Mr K. Tarolah (Third Member for Montagne Blanche & GRSE) asked the Minister of Health and Quality of Life whether, in regard to the proposed construction of a new Community Health Centre at Camp de Masque, he will state where matters stand.

Dr. Husnoo: Madam Speaker, I am informed that land to the extent of 25 perches was previously vested to my Ministry for the construction of the Community Health Centre at Camp de Masque.

Due to site constraints, the Ministry of Public Infrastructure and Land Transport Authority advised that an additional extent of 10 perches be requested from the Ministry of Housing and Lands for the provision of parking facilities for the proposed Community Health Centre.

On 08 February 2018, the Ministry of Housing and Lands vested the additional 10.5 perches to the Ministry of Health and Quality of Life.

And on 15 May 2018, the Ministry of Public Infrastructure and Land Transport submitted the revised cost estimate to the tune of Rs35,134,340, inclusive of contingency sum Rs1 m. and 15% VAT, which has been approved by my Ministry.

The detailed design and tender document for the Community Health Centre is currently under preparation by the Ministry of Public Infrastructure and Land Transport for the available lots.

Funds are available and the construction work once started is expected to last about 9 months.

MOTION

SUSPENSION OF S. O. 10(2)

The Deputy Prime Minister: Madam Speaker, I beg to move that all the business on today's Order Paper be exempted from the provisions of paragraph (2) of Standing Order 10.

Mr Roopun rose and seconded.

Question put and agreed to.

PUBLIC BILLS

First Reading

On motion made and seconded, the following Bills were read a first time -

- (a) *The Local Government (Amendment) Bill (No. IX of 2018)*
- (b) *The Road Traffic (Amendment) Bill (No. X of 2018)*

THE CODE DE COMMERCE (AMENDMENT) BILL

(No. IV of 2018)

Order for Second Reading read.

The Attorney General, Minister of Justice, Human Rights and Institutional Reforms (Mr M. Gobin): Madam Speaker, I move that the Code de Commerce (Amendment) Bill (No. IV of 2018) be read a second time.

Madam Speaker, the Law Reform Commission had submitted, in 2012, a *Report on «Code de Commerce (Livre Premier) [fonds de commerce, garanties autonomes, crédit documentaire, franchise, concession exclusive & timeshare]»* in which it submitted draft provisions on the “*fonds de commerce*” and “*garanties autonomes*”. Those provisions have been incorporated in the present Code de Commerce (Amendment) Bill 2018, the object of which is to amend the Code de Commerce to allow the use of the value of a commercial business as a whole, including leasehold rights, trade name, intellectual property rights and goodwill but excluding the value of freehold property as collateral and enhance access to credit.

The Bill thus amends the Code de Commerce to introduce into our law the concepts of “*fonds de commerce*”, provided for in Clause 2, and of “*garanties autonomes*” in Clause 3.

The concept of “*fonds de commerce*”, Madam Speaker, exists as far back as 1909, in France, but is still unknown in our law. In the context of the reform of the Code de Commerce, the usefulness of such a concept has been examined and it has been considered

that it would be appropriate to incorporate this concept into our law, with some adaptation, as it would ease the doing of business by facilitating access to credit. The *fonds de commerce* will be established in the new articles 110 to 165 of the *Code de Commerce*.

As for the “*garantie autonome*”, it is a financial commitment by which a financial institution undertakes to make, for the benefit of a beneficiary and at the request of the latter, payment of an amount up to a sum agreed in that undertaking, without this institution being able to postpone this payment or raise a dispute for any reason whatsoever. Reference is here being made to article 166 in the Bill. This new concept will be regulated in the new *articles 166 à 188* of the *Code de Commerce*.

Madam Speaker, I come to Clause 2 on the *fonds de commerce*. In Mauritius, those who engage in commerce, such as, for example, shops or stores, indeed, have an economic value. This value, in fact, takes the form of a price that traders charge their buyers, especially in the form of “*pas de porte*”. But these exploitations do not have a legal existence. Mauritian law does not recognise them. This major lacuna in our law with regard to an obvious reality presents disadvantages for traders. It also deprives them of certain advantages that they could obtain through legal recognition of their *exploitation*. The purpose of the provisions on the *fonds de commerce*, therefore, is precisely to fill this regrettable gap. It enshrines the legal existence of the commercial *exploitation* that the French *Code de Commerce* designates and defines for a long time now, under the denomination of “*fonds de commerce*”.

The Bill defines the *fonds de commerce* in *article 110*. It is constituted by the legal unitary entity of tangible and intangible assets that participate in a commercial exploitation and whose essential purpose is to satisfy the needs of the *clientèle*.

Being composed of a set of goods, of very diverse nature, the *fonds de commerce* is nonetheless a unitary legal entity, distinct from the various elements that comprise it. This principle is enshrined in *article 111*. The *fonds de commerce* is an intangible property because it is, in a way, the result of a creation of the mind. Its value is not equal to the total value of all its elements. Its value is, in fact, usually more than its constituent elements.

The recognition of the *fonds de commerce* has obvious consequences: it may be subject to an autonomous legal regime, distinct from the legal regimes applicable to each of its elements, taken individually, such as the commercial lease, the goods, equipment, tools, etc. This is how the *fonds de commerce* can be alienated, as such, pledged, leased, or seized globally by creditors. In all these operations, the legal regime applicable concerns the *fonds de commerce*, with all its elements. It does not concern each of the elements, considered separately.

The legal recognition of their commercial exploitation, that is, to say of the *fonds de commerce*, will present advantages for the Mauritian traders. The purchase of their *fonds de commerce* will now be regulated by law, access to credit will be easier and they will be able to modify their activity to adapt to changing demands.

The provisions of the Bill will provide more certainty in transactions concerning commercial *exploitations*. Today, this security does not exist. Since these exploitations are not recognised by law, their sale is not regulated. The seller usually charges the buyer a lump sum, as I said earlier, a “*pas de porte*”, whose estimated value is only approximate. The payment is often made in a clandestine manner - known in local jargon as “*enbas la table*” - and thus provides no guarantee to the purchaser. The legal certainty is null and the operation presents risks incompatible with the normal practice of the businesses.

The Bill, therefore, puts an end to this legal uncertainty. Its provisions provide, in fact, strict measures to inform the buyer of a *fonds de commerce* of the reality of its condition as well as its value. In addition to listing the tangible and intangible components of this *fonds*, the deed of sale must include the mention of the turnover it has realised during the last three years of operation or since the date of its acquisition by the seller as well as the commercial profits made during the same time. This is enshrined in article 115 of the Code de Commerce.

The buyer can thus acquire the *fonds de commerce* safely. As for the seller, he will also benefit from greater security. In case of failure of the buyer to pay, he will now have a very effective guarantee by being granted the *privilège du vendeur*. Finally, even third parties will be protected by the legal publication and registration that are provided in the Bill, namely at Article 128.

As for the exploitation that are rented out (*location-gérance*), the Bill also ensures the safety of third parties. The exercise of a *gérance* can affect the interest of third parties, when they are not sufficiently informed on the management of the exploitation. The Bill, therefore, provides not only information to third parties, but also the joint liability to them, of the owner of the *fonds* and the *gérant*, for a certain period of time as provided in Article 151.

For acquirers or business owners of the *fonds de commerce*, access to credit will be easier. As the *fonds de commerce* is a unitary good and is the subject of legal publication, it may be encumbered with a non-possessory pledge, that is, *nantissement sans dépossession*. Therefore, purchasers or business owners will be able to pledge the *fonds* in favour of the bank which will lend them the necessary funds, either to purchase or to improve their

commercial exploitation. That is provided in Article 130. The business will thus enable the trader to obtain the credit necessary for its acquisition and improvement.

This is not the case today. Since commercial exploitation is not recognised by law, the trader must often use his personal property to obtain credit. A trader thus generally agrees to a floating charge on all of his assets. The risks are obvious - for he must, to obtain credit, indebt himself on his personal assets.

Furthermore, Madam Speaker, from now on, business owners will be able to modify their activity to adapt to changing demands. This is what the Bill provides and which is not the case today. The owner of a commercial operation whose activity is exercised in a rented building cannot change his activity because it represents *la destination* of the lease. He is, therefore, required to keep this activity, unless agreed by its lessor, even if the change in demand requires a change. If the lessor is not agreeable or unreasonably withholds his consent, there is no avenue open in such a situation.

The Bill remedies such an unfair situation. The owner of a *fonds* will henceforth be able to add activities related or complementary to the activity - I stress on the words 'related or complementary to the activity' - that is provided in the lease of the building where the *fonds* is located. That is provided in Article 156.

The owner of the *fonds de commerce* - not of the building - may also, at his request, be authorised to carry out in the leased premises one or more activities different from those provided for in the lease, having regard to the economic situation and the needs of the organisation, when such activities are compatible with the *destination, le caractère et la situation*. That is in Article 159.

So, with the legal recognition of commercial activity, the *fonds de commerce* becomes a property in its own right and the owner has the right to modify, subject, of course, to limitations with a view not to undermine the interests of the owner or third parties. As a result, the owner of a *fonds de commerce* may, under certain conditions, change his commercial activity, and importantly, the intervention of the Court is provided for in specific cases. The Bill, therefore, regulates this modification of activity.

From now on, with this new legislation, Mauritian traders will benefit from a considerable advantage. They will be able to adapt their commercial exploitation to the evolution of the market. For example, a shop that operates a hardware business may choose to sell other appliances. This advantage is not only of interest to owners of *fonds de*

commerce because it makes commercial exploitations adaptable to changing demand, but also is of importance to the entire chain of distribution.

Madam Speaker, I have to add, before ending, that I will move four minor amendments at Committee Stage in clause 2 relating to Articles 149, 150, 151 and 162. The amendments, I understand, have already been circulated.

Madam Speaker, I have to add that Government will consider, at a later stage, after completing appropriate consultations, the addition of a “*Chapitre Septième*” on “*Bail commercial*”. As pointed out in the Law Reform Commission’s Report on *Bail commercial* dated March 2015, I quote -

« *La reconnaissance légale du fonds de commerce, qui consacre l’existence juridique de l’exploitation commerciale, doit nécessairement impliquer une réglementation spécifique du bail commercial, c’est-à-dire de la location, par un commerçant, de locaux immobiliers en vue de l’installation de son fonds.* »

Consultations on this Bill started some months back, but need to be completed before the Bill is brought to the House.

Now, Madam Speaker, on clause 3 concerning *garanties autonomes*.

Under the regime of *garantie autonome*, the financial institution must pay the beneficiary, often at the first request of the latter, without being able to oppose it - except in the case of a manifestly fraudulent request - the slightest exception drawn from any report or from any legal situation.

This guarantee technique is mainly used in international trade, more specifically in the field of imports and exports. The history of the relationship between importers and exporters easily explains the rationale and mechanism of *garantie autonome*. Originally, the importer or exporter, when in a position of power in the commercial relationship, plainly required the deposit of a real bond as security for the proper performance by his co-contractor of his obligations, relating to the promised goods. This deposit was made available to him and he could use the sum deposited as soon as the contract was not correctly executed.

The *garantie autonome* represents today the modern form of this process which is no longer used. Now, thanks to the ease of communication between financial institutions, the sum that was previously physically deposited has been replaced by a bank commitment. This, of course, spares the cash flow of the importer or exporter who has to provide the guarantee.

But the mechanism remains the same. The beneficiary can directly benefit by asking the bank that has committed to payment, to make it without discussion when the beneficiary asks him to do so.

Given their economic importance, the *garanties autonomes* were the subject of some regulation at the initiative of the United Nations Commission on International Trade, which drew up a draft Convention in 1995. Similarly, in 1991, the International Chamber of Commerce adopted uniform rules on guarantees on demand. But these international rules, if they are useful for resolving conflicts of laws and determining skills, do not always allow operators to agree. Because they are used freely by operators, some opt for the rules of the United Nations, others for those of the International Chamber of Commerce, and in many cases for none of these two rules.

It has, therefore, become necessary, Mauritius actively participating in international trade, to equip our legislation with a national regulation on *garanties autonomes*, while at the same time leaving operators the option of opting for international regulation. This is the *raison d'être* of the provisions on *garanties autonomes*.

This Bill regulates in detail the two main *garanties autonomes*; the *garantie à première demande*, which is provided for in *Articles 169-183* and the *crédit standby*, provided in *Articles 184-186*, which, despite its name, is not a credit but a *garantie*.

The first type, *garantie à première demande*, is the one most used. In this type of *garantie*, an importer or exporter, when he is obliged to guarantee the commercial operation, orders the banker of his country, who is called the *contre-garant*, to contact a banker in the country, where the guarantee is to be paid, called the guarantor, so that the guarantor pays a certain sum at the request of the beneficiary. This is enshrined in *Article 170*.

The purpose of the new regime is to govern the legal relationship between these parties and essentially to prevent fraud.

When the beneficiary calls the guarantee, he must prove that he satisfies the conditions to which the guarantee was subject. The guarantor verifies these conditions by examining the application with reasonable care, to determine whether it is in accordance with the terms and conditions of the letter of guarantee. If the guarantee call complies with this letter, the banker must pay without arguing. Subject to fraud or abuse of the beneficiary, he may not raise any dispute for any reason whatsoever and his resistance to pay may incur liability towards the beneficiary. That is enshrined in *Article 179*.

The *donneur d'ordre* may, however, obtain from the guarantor the *suspension* of payments provided that he establishes the existence of the manifest fraud or abuse of the beneficiary. Fraud is characterised by a manoeuvre by the beneficiary to obtain a sum to which he is not entitled. The abuse consists, on the part of this beneficiary, in taking advantage of the automatism of the implementation of the guarantee, to claim a payment although it is devoid of any claim under the basic contract. Fraud or abuse is evident when, at first glance, they are obvious in the clear and unambiguous stipulations or performance of the basic contract, particularly where the appeal of the guarantee is undeniably foreign to the domain or subject of this contract. This is contained in *Article 181*.

The second type of guarantee, the *crédit standby*, differs slightly from the first, in that the payment of the guarantee is conditional upon the submission of certain documents by the beneficiary who claims the guarantee. Reference is made here to *Article 185*. This presentation of documents is inspired by the documentary credit (*crédit documentaire*) and this is the reason why the guarantee was improperly named "*crédit standby*".

The legal regime and implementation of the guarantee resulting from a standby letter of credit are similar to those resulting from a letter of guarantee on first demand.

The norms set out in this Bill, Madam Speaker, will be, to say the least, very useful to operators. It can facilitate the approach of this technique of guarantee and can help avoid possible conflicts of laws.

With these words, Madam Speaker, I commend this Bill to the House.

Mr Hurreeram rose and seconded.

Madam Speaker: Hon. Mrs Fazila Jeewa-Daureeawoo!

(3.41.p.m.)

The Vice-Prime Minister, Minister of Local Government and Outer Islands (Mrs F. Jeewa-Daureeawoo): Madam Speaker, allow me right from the outset to thank the hon. Attorney General for bringing this piece of legislation in the Assembly today.

Avec l'introduction de ce projet de loi, *the Code de Commerce (Amendment) Bill (No. IV of 2018)*, notre gouvernement vient combler une lacune juridique qui existe dans le droit mauricien depuis longtemps. Ce projet de loi donnera désormais une reconnaissance légale et une existence juridique au concept du fonds de commerce. Ce texte est inspiré du droit commercial français, qui dès 1909, avait déjà introduit et reconnu l'existence juridique du

fonds de commerce. Ce texte apporte une définition juridique à la notion du fonds de commerce, lui donnant une existence légale, distincte et une valeur économique.

Examinons les objectifs principaux de ce projet de loi. Premièrement, il y a le développement et la croissance du commerce et de l'industrie à Maurice. Je parle, ici, plus précisément des petites et moyennes entreprises. Deuxièmement, il s'agit de faciliter l'accès des commerçants au crédit à travers l'exploitation de leur fonds de commerce. Le fonds de commerce pourra désormais être l'objet de plusieurs transactions et opérations commerciales, dont la vente ou cession, le nantissement et la location gérance. Les articles 110 et 112 de ce projet de loi introduisent la notion du fonds de commerce en droit mauricien en lui apportant une définition et une entité juridique distincte.

Le fonds de commerce est défini comme un bien meuble incorporel qui regroupe l'ensemble des biens mobiliers corporels et incorporels, assemblés et organisés par un commerçant pour constituer et exploiter sa clientèle.

Le fonds de commerce est composé par deux types d'éléments. Il y a d'abord les corporels qui regroupent tout ce qui est concret et visible, par exemple, le matériel, l'outillage et les marchandises. Ensuite, il y a les incorporels qui sont impossibles à quantifier physiquement. Il s'agit, ici, de la clientèle, le nom commercial, l'enseigne, les marques et brevets d'inventions, les droits de propriété intellectuelle, les autorisations et les licences administratives et le droit au bail.

L'article 113 vient attribuer une valeur économique au fonds de commerce, qui, à travers l'exploitation commerciale, deviendra une source de richesse pour les commerçants propriétaires.

L'article 114 permet spécifiquement l'exploitation commerciale du fonds de commerce par le commerçant-propriétaire. Cet article prévoit ainsi que le fonds de commerce peut être l'objet de différentes transactions, tels que la cession ou la vente, le nantissement et la location gérance.

L'article 115 du projet de loi permet à un commerçant-propriétaire de faire une cession de son fonds de commerce à travers une vente. La réglementation de la vente du fonds de commerce, à travers ce projet de loi, permettra d'accroître le développement des petites et moyennes entreprises.

Il y a de nombreux avantages pratiques qui découlent de la vente d'un fonds de commerce. Premièrement, un commerçant-proprétaire qui est en difficulté financière peut vendre son fonds de commerce pour éviter la faillite.

Deuxièmement, cela va faciliter le démarrage de nouvelles activités commerciales et encourager l'investissement. La reprise d'un fonds de commerce à travers une vente est une option très avantageuse. L'entrepreneur, acquéreur du fonds de commerce, dispose immédiatement des locaux, d'équipements et de toutes les autorisations et licences administratives requises pour assurer la continuité de son commerce.

Troisièmement, l'achat d'un fonds de commerce est une option très rentable pour l'entrepreneur acquéreur, car ce dernier bénéficie de la continuation de l'activité commerciale. Il a également accès à une base de clients, ce qui lui garantit un chiffre d'affaire minimum dès ses premiers mois d'activités. Il bénéficie par ailleurs de l'image et de la renommée de son prédécesseur ou de l'enseigne commerciale. Enfin, le capital acquis comprend aussi le répertoire de fournisseurs et de partenaires.

Il y a un autre avantage pour l'acquéreur du fonds de commerce. Il devient uniquement propriétaire des actifs de l'entreprise et non des passifs. L'acquéreur ne prend en charge aucune des obligations, ni aucune des dettes du vendeur du fonds de commerce.

Madame la présidente, un autre point saillant se trouve à l'article 130 de ce projet de loi qui permet le nantissement d'un fonds de commerce par un commerçant-proprétaire. Cela a pour objectif de faciliter l'accès au crédit et l'obtention des prêts en utilisant le fonds de commerce comme garantie auprès des créanciers tels que la banque. Le nantissement du fonds de commerce permettra désormais de proposer une garantie efficace aux créanciers lorsqu'ils accordent un crédit à un commerçant-proprétaire. Le nantissement du fonds de commerce est un contrat par lequel le fonds est offert comme garantie pour le remboursement des dettes contractées par le commerçant pour les besoins de son commerce. Il va mettre en gage son fonds de commerce à titre de sûreté pour garantir le paiement du crédit dû aux créanciers tels que la banque. Le nantissement du fonds de commerce portera sur tous les biens nécessaires à l'exploitation du fonds. Je parle ici du nom commercial, l'enseigne, le droit au bail, le mobilier commercial, le matériel et l'outillage, les brevets d'inventions et de licences et aussi tous les droits de propriétés intellectuelles.

Le nantissement du fonds de commerce est un moyen très efficace et pratique pour faciliter l'accès au crédit et au financement des Petites et Moyennes Entreprises. Il s'agit

d'une forme de garantie et de sûreté pour des prêts qui ne comportent pas de dépossession du fonds de commerce pour le commerçant-proprétaire. Ainsi, ce dernier continue à exploiter le fonds de commerce.

Madame la présidente, une autre mesure phare de ce projet de loi se trouve à l'Article 147 qui prévoit la location-gérance d'un fonds de commerce. Ce concept de location-gérance permettra d'assurer la permanence et la continuité des activités commerciales d'un commerce surtout lorsque le commerçant-proprétaire du fonds de commerce se trouve dans l'incapacité physique ou juridique ou ne veut plus continuer à le gérer personnellement.

La location-gérance est une formule contractuelle selon laquelle le commerçant-proprétaire d'un fonds de commerce peut le donner en location, et ainsi, en transmet la gérance à un tiers appelé le locataire-gérant qui va l'exploiter à ses propres risques et périls moyennant une redevance.

Le propriétaire, qui aura alors un rôle passif, ne recevra que des loyers et ne pourra s'immiscer dans la gestion du fonds de commerce par le locataire-gérant. Puisque le locataire-gérant devra exploiter le fonds de commerce à ses propres risques et périls, il bénéficiera des profits et supportera aussi les pertes générées par le fonds de commerce. Les avantages pratiques découlant du principe de location-gérance d'un fonds de commerce seront nombreux pour les commerçants-proprétaires mauriciens. Cela va grandement faciliter la continuité des opérations des Petites et Moyennes Entreprises à Maurice et empêcher, en même temps, la fermeture fortuite des commerces.

Le principe de location-gérance sera un avantage si le commerçant-proprétaire est frappé d'une incapacité physique pour des raisons de santé. Dans ce cas, il se peut qu'il devienne un majeur incapable placé sous tutelle ou curatelle. Il ne pourra plus exercer son activité de commerçant, ni exploiter son fonds de commerce. Toutefois, avec ces amendements, il pourra le donner en location-gérance et avoir une redevance pour assurer sa sécurité financière sans avoir à mettre clé sous paillason.

Une situation commune à Maurice est celle où le commerçant-proprétaire est frappé d'une incapacité juridique qui l'empêche d'être un commerçant et de gérer personnellement son fonds de commerce. Cela peut se passer si le commerçant a été l'objet d'une déchéance l'interdisant d'exercer la profession commerciale pour cause de condamnation criminelle pour des offenses relevant de la fraude, de la malhonnêteté et du détournement sous l'Article 7 du Code de Commerce.

Cela peut aussi être le cas si le commerçant a fait l'objet d'un *bankruptcy order* sous l'*Insolvency Act* par la Cour Commerciale pour non-paiement de ses dettes. Dans ces situations, le commerçant déchu propriétaire peut donner son fonds de commerce en location-gérance en retour d'un loyer lui donnant ainsi une sécurité financière. La location-gérance sera aussi d'une grande aide pour les personnes non commerçantes qui ont reçu un fonds de commerce par voie d'héritage dans la succession, notamment un mineur. Ces personnes n'ont pas la capacité d'exercer en tant que commerçant. Ils ne pourront pas gérer le fonds de commerce personnellement, mais en tant que propriétaires, ils peuvent le donner en location-gérance pour avoir une rente.

Et finalement la location-gérance est une solution adaptée pour aider un commerçant vieillissant qui voudrait se retirer des affaires et partir à la retraite tout en lui garantissant une retraite paisible avec les redevances qu'il peut tirer de la location de son fonds de commerce.

Madame la présidente, le gouvernement est confiant que ces amendements apportés au Code de Commerce à travers ce projet de loi vont permettre le développement et la croissance dans le secteur du commerce et de l'industrie à Maurice plus précisément les Petites et Moyennes Entreprises. Cela aidera ainsi Maurice à consolider sa position dans le classement de '*Ease of Doing Business*'.

Merci, Madame la présidente.

Madam Speaker: Hon. Rutnah!

(3.53 p.m.)

Mr S. Rutnah (Third Member for Piton & Rivière du Rempart): Thank you, Madam Speaker. As I stand today in this House, Madam Speaker, this Bill, I must say, is presented on the day when none of the Opposition MPs are in this House. It is a great ...

(Interruptions)

Exactly, shamefully that none of the Opposition MPs are in the House.

In fact, it is a great day for those who are engaged in business, trade and commerce in this country and, at the same time, it is a sad day for those who are engaged in trade, business and commerce in this country. Why a great day? It is because despite the fact that the Law Commission recommended since 2012 to reform the law relating to Code de Commerce, they were in power, the PMSD/Parti Travailleiste were in power while the MMM, they were engaged in on/off deal with the Labour Party, yet, they never deemed it fair, reasonable in

order to protect our small traders, those who are engaged in the SMEs and to propose any amendment of the kind that the current Attorney General has proposed in this House today.

So, for our country, it is a great day and for those people engaged in trade and business thanks to this Attorney General who has brought this amendment to the Code de Commerce in order to facilitate business in the foreseeable future. Whereas it is a sad day because the Opposition MPs are not here to contribute to this Bill, to criticise if there are any constructive criticism so that it could be taken on board in order to bring amendment, if need be, in the interest of the people of this country, of those who are engaged in trade, business and commerce.

The House will recall that it is this Government through the Prime Minister and the Minister of Finance that the Business Facilitation Act was voted. Why? Because we want a country where we would be able to do business in a manner that is conducive to the modern way of doing business. And, today, in the same vein, with the same philosophy, this Bill is being presented.

Now, I have heard what my very able and learned friend, the hon. Attorney General has said and I endorse everything that he has said in relation to this Bill. I have also listened attentively to my very able and learned friend, the Vice-Prime Minister, who has been an Attorney at Law for longstanding and has contributed positively today in the House. I also endorse everything that she has said in the House today. I have not got very much to say because there is no opposition and there is no criticism. So, I cannot keep repeating what they have already ably said in the House. But, Madam Speaker, if I may say this on a general note and in very simple terms that this Bill seeks, firstly, to allow traders to use what is called value in Law in relation to their business and to ease the doing of business and to facilitate access to credit.

There is this concept of *garantie autonome* to which I will come at a later stage. There is also this opportunity now to access credit facilities, more certainty in transaction that can be held between two parties, the end of clandestine payment that is prejudicial to the buyer. The deed of sale must include the turnover over the last three years, according to Article 115, to prevent fraudulent transactions. But what is extraordinary in today's Bill is, according to me, the clauses that start from 166 onwards up to 168 in relation to *les garanties autonomes* and to put it in simple term, I will simply read what clause 167 states very clearly -

« Le contrat commercial de base, étant conclu entre un exportateur et un importateur, la garantie autonome peut être souscrite au profit de l'un ou l'autre de ces deux contractants.

Lorsque la garantie est souscrite au profit de l'exportateur, elle a pour objet de garantir les obligations de l'importateur. Sa finalité réside dans la couverture du paiement du prix de vente, ou du prix des travaux ou des services réalisés par l'exportateur, fournisseur, entrepreneur ou prestataire de services. »

What this simply means is that the obligation is discharged if and only if the payment is effected and there is this *garantie autonome* and similarly for the importer and the exporter. Madam Speaker, today, if you are in Mauritius and you want to do business whether you are an importer or an exporter, whether you are someone who is engaged in SMEs or whether you are someone who is engaged in a small retail outlet, you are now able to reap the benefit of a modern law, *un encadrement modern* that was there since 1909 but no one bothered to include it in our law in order to give that business boost to our countryman, to our people, to our youngsters.

Today, I am very thankful to the hon. Attorney General for having brought this piece of legislation. I thank the people of Mauritius for having listened to me on their screen, the hon. Attorney General and my very able Vice-Prime Minister.

Madam Speaker: Hon. Fowdar!

(4.00 p.m.)

Mr S. Fowdar (Third Member for Grand' Baie & Poudre d'Or): Thank you, Madam Speaker. Let me, first of all, congratulate my good friend, the hon. Attorney General for bringing this Bill to the House. I will go into the Bill with a different perspective. I think we listened to four lawyers and the fourth lawyer, the Deputy Prime Minister, to speak about the Bill and I am the only one who is not a lawyer, but I am an accountant. So, the perspective will be different although the aim of the Bill is the same.

Madam Speaker, for me, this Bill has got a major importance for the business world, in particular for the promotion of innovation and for the SMEs. It is a well-known practice when we go to the bank and when we want to apply for a loan, the banker will usually ask us for two things. Firstly, they will ask us to show whether we can repay the loan, whether we have got the capacity of repayment, whether there will be future income from the business or we have salary and what not. They need to be assured that we have the capacity to repay the

loan. But the second thing they will look for is what we are going to give as security because if ever we default, if we can't repay the loan, the banker will forfeit whatever we put as guarantee, as security for the loan. And this is known as collateral security. So, we all have come across that when we go to apply for a loan, either business loan or personal loan, we have to put forward some sort of guarantee, security.

Now, these collateral securities usually take the form of land, building, plant and machinery and other assets and these assets are known as tangible assets. Now, up to now, the bankers are only willing to accept tangible assets as security and they don't want to entertain any sort of assets. But, in fact, there are two types of assets, Madam Speaker. There are tangible assets and intangible assets.

Tangible assets are land, building, plant and machinery whereas intangible assets are patent, licences, goodwill and intellectual property. The intangible assets are not visible and they are very complex to value. It is not easy to value the goodwill of a business, how much it is. Although the business is doing well, it is difficult to value and there is no market for intangibles. You cannot trade your goodwill in a market fair.

So, most Balance Sheets have both assets, they have tangible and intangible assets. Now, the responsibility to show the intangible assets, Madam Speaker, is regulated by the International Accounting Standard, No. 38. In the past, intangibles were not in the books of accounts. Now, the recognition of intangible assets has been a discussion for many years and accountants and businessmen have fought relentlessly for ages to have intangibles in the books. Now, the first official discussion paper regarding the acceptance of putting intangibles in the books was published in February 1977 and this was with regard to how to treat research and development expenditure, which is again an intangible asset.

Madam Speaker, after extensive discussions and after so many years, finally, accountants and businessmen have agreed with the treatment of intangibles with the issue of the International Accounting Standards No. 38 in the year 1998. Now, basically IAS 38 requires an entity to recognise both intangible assets and tangible assets in the books of accounts. Therefore, intangible assets are fully recognised in the books, but yet the banks are very reluctant to recognise intangible assets when they consider application for loans. What they look for is only the tangible assets.

Now intangible assets are created by payments, patents, trademarks, copyrights known as intellectual property and it is also in relation to trade secrets, know-how, internal system, customer and supplier lists, skills and talents, market share and many more. The

importance of this Bill in this House today, Madam Speaker, is that this Bill will allow people now to pledge their intangibles against loan which was not permitted before.

It was at the discretion of the Bank. The Bill is going to allow borrowers henceforth to pledge intangibles as collateral security. In the past, it was only for tangible assets. So, intellectual property nowadays, Madam Speaker, is more important than tangible assets. But what is happening these days? The balance sheet nowadays shows a higher proportion of intangible assets as compared to tangible assets.

In the past, balance sheet was showing only tangible assets. These days, the balance sheet shows more tangible assets, higher proportion. Recent studies show that 80% in balance sheet are for intangibles as compared to only 20% of tangibles. Madam Speaker, in the year 2000, the largest US companies were the General Electric, Exxon, City Group, and they were all focused on tangible assets. These days, they have been replaced by Apple, Microsoft, Google, Facebook and they all have a higher proportion of intangible assets as compared to tangible assets.

Madam Speaker, Facebook, which has got a higher proportion of intangibles, does not have any major capital commitment. They do not have any major fixed assets.

Madam Speaker: Hon. Fowdar, I am really sorry! I have to stop you because you are going too lengthily into that other debate. I would rather wish that you bring back your points to the amendment which is being brought, and relate it to the points that you have made already. Thank you.

Mr Fowdar: Thank you, Madam Speaker. In fact, I am coming to the amendments. I am trying to show how intangibles these days are more important than tangibles, and that is why this amendment is brought in the House today to give more importance to the tangibles and to allow traders, businessmen, to pledge their intangibles against bank loans.

So, what I was saying, Madam Speaker, that Facebook which is a company with heavy intangibles is a very successful company. Uber - we are talking of Uber - is a massive taxi company that does not own any taxi. Yet, their profit is massive: USD 7.5 billion. So, the pattern is definitely changing and reversing. The banks must review their policy in the light of the changes.

Madam Speaker, the recognition of IP and the recognition of innovation following efforts put on research and development is essential for the economic development of this country. The country needs youth who will bring innovation and changes. This can only

happen if innovation is supported financially by the banks. The banks will only support innovation once we have brought this change in the *Code de Commerce*.

Madam Speaker, this Bill will allow innovators to pledge their creation, their invention or their intellectual property against loans, thus enabling them to move forward. But this is not new! Although, it was not in the law, in 1889, Madam Speaker, Thomas Edison, the inventor of electric lighting, needed money to develop his product and he had no tangible assets. He was given loan against his invention. Today, we are using electric lighting thanks to the use of intellectual property at that time.

Madam Speaker, this Bill will allow many of our entrepreneurs, the SMEs, to innovate and develop their product with the help of the bank. I will take one example, a simple example of an SME which happened to be a small entrepreneur. He is very famous *marchand roti* in Port Louis. The entrepreneur has reinvented the recipe and has innovated. He is cooking a different roti and his business is very successful. Yet, if this same person goes to the bank and if he applies for a loan, it will be difficult because he has got few tangible assets. He has got some gas cookers, but he has got some very effective people working around him.

Today, with this amendment, this person can pledge his intellectual property because he is a very successful businessman and his accounts show his goodwill. He can show his accounts for last ten years, last five years and he will be granted loan. His intangible assets will be used as collateral security. So, this is one example, Madam Speaker. I hope many small entrepreneurs will follow the same pattern and they will use their invention, their creation to pledge, to apply for loans and to develop further their business.

For me, Madam Speaker, this Bill has great importance for innovators. I have taken it from a different angle. It has got a great importance for innovators and for small entrepreneurs. It will definitely boost up the morale of the SMEs and the entrepreneurs, and will give them leeway to develop their business and to move forward. It is now for the bank to play the game, Madam Speaker. It all depends on the bank, and I hope that from the changes we are bringing today, the bank will follow the pattern.

I thank you, Madam Speaker.

(4.13 p.m.)

The Deputy Prime Minister: Merci, Madame la présidente. Il y a deux parties à ce projet de loi. La première partie, c'est le fonds de commerce. La deuxième partie, ce sont les garanties. Je parlerai uniquement du fonds de commerce et non pas des garanties.

La première partie, c'est la clause 2 qui introduit dans notre Code de Commerce, la notion de ce fonds de commerce et la clause 3 qui vient insérer le Titre Neuvième, c'est-à-dire les garanties.

Je félicite l'*Attorney General* pour ce projet de loi et je m'expliquerai pourquoi les félicitations sont *in order*. Je félicite aussi et je remercie les intervenants, l'honorable Rutnah, l'honorable Madame Jeewa-Daureeawoo et l'honorable Sangeet Fowdar pour avoir apporté leur contribution qui vient expliquer ce que nous sommes en train de faire.

This Bill is about empowerment. Perhaps, the Opposition has not realised what step we are doing today. Or perhaps they have realised what step we are doing today. If they have gone on the flimsiest of pretext because, frankly I have never heard or seen; I have been so many years in politics. I was just talking to the Rt. hon. Minister Mentor. He was telling me he has never seen such despicable behaviour. On the day when we are going to talk of the Bill which is going to empower the *ti-dimounes* of this country. This pretext of this morning! What has happened? Because time has run out, they kick up a row and they go! *Mais pour qui est-ce qu'on nous prend ? Pour qui est-ce qu'on prend cette population ? Car ce projet de loi va changer l'économie de ce pays.*

Nous avons commencé, Madame la présidente, sous les Français comme une population agricole, la canne à sucre et son corollaire l'alcool de canne. C'est tout ce que nous faisions. Et le commerce à cette époque, c'était le commerce international des épices à travers le port et le commerce sur le port pour aider l'industrie sucrière. C'est tout ce que nous étions.

Les Français, comme on les appelait, avaient leurs lois, la Coutume de Paris et le Code de Colbert, et les esclaves avaient leur loi, le Code Noir. Ceux qui étaient ni Français ni esclaves, car il y a avait des commerçants, des notables asiatiques, ceux-là étaient régis par les mêmes lois que la population française. Et c'est ainsi que la vie a continué jusqu'à l'Acte de capitulation en 1810, où notre Code de Commerce qui fut promulgué en 1809 entre dans notre droit. Les Anglais ont inséré cela dans le traité de Paris de 1814, et c'est ainsi que nous avons progressé jusqu'à l'abolition de l'esclavage.

Quand on abolit esclavage, il y a deux choses qui se passent. Il y a, premièrement, la compensation aux planteurs. La compensation n'est pas donnée au gouvernement colonial, c'est-à-dire la compensation n'est pas donnée au pays, mais la compensation est donnée aux planteurs esclavagistes. Ils forment une banque d'ailleurs, la Mauritius Commercial Bank, et ils donnent un nouveau dynamisme au pays avec cet argent. Mais surtout, deuxièmement, c'est la révolution sociale et économique qui s'opère à partir de 1835, et nous célébrons, nous le savons, tous les ans, la commémoration pour l'arrivée des travailleurs et la libération des esclaves.

Que se passe-t-il dans le domaine du commerce ? Il y a d'abord le commerçant chinois sur les propriétés, qui étaient l'axe principal de l'activité économique à part les villes. Et le commerçant chinois fait venir ce dont les travailleurs, laboureurs indiens engagés ont besoin. Il les vend, il donne du crédit, et c'est la première fois que le travailleur peut avoir accès au crédit. Et le boutiquier chinois vient avec son système de Chine, Confucius, et les sages de l'Inde ensemble vont bâtir l'économie de ce pays. Et nous continuons pendant la première guerre, entre-guère, deuxième guère, et là, au début du 20e siècle, il y a un nouveau phénomène. C'est l'émergence d'un *middle class*.

Ce *middle class* va à l'école, normalement l'école des Sœurs de Lorette et les Frères du Saint-Esprit, mais aussi l'école du gouvernement. L'éducation entre dans nos mœurs à partir du début du 20e siècle, et cette nouvelle classe économique éduquée devient partie prenante du commerce mauricien.

Des gens commencent petit et ils construisent un petit business. Cela monte. S'il est tourneur, il a son petit appareil, et au restaurant, il a sa petite cuisine, il a son outillage, il a son équipement. Il loue ou il achète un petit bâtiment qui grandit, et parfois son nom devient une valeur - Restaurant Lai Min, la Pharmacie Ramdane, la Pharmacie Seetulsingh. Tous ces noms-là sont des noms qui ont eu des valeurs intrinsèques qui sont attachées à ce commerce. Il y a la clientèle qui vient. Il y a une pharmacie à Beau Bassin qui a beaucoup plus de clientèle qu'une autre pharmacie qui est à 75 mètres. Pourquoi, on ne sait pas. Comme l'honorable Fowdar disait, c'est intangible. C'est une valeur qu'on ne peut pas comprendre, qu'on ne peut pas voir. Et puis, il y a le *roti* de l'honorable Fowdar, la façon de faire ce *roti*. Pourquoi est-ce qu'on préfère le 'mine frit' de tel restaurant plutôt que le 'mine frit' d'un autre restaurant ? Parce qu'il a sa petite recette. C'est sa propriété intellectuelle, intangible.

The business grows, but as hon. Fowdar says, in practice, what happens when the trader needs money? If he needs to import goods, that is alright, there is the banking mechanism, because the credit is based on the letter of credit, which is goods are in guarantee and he has got 90 days to pay if his banker has some trust in him. But that is movable, tangible assets, *des meubles corporels*. So, it is easy. But if he needs credit to expand his business, he will get it. He will get it, and his only credit - because he has no building, he cannot mortgage - is the floating charge. And when he goes to the bank, inscribes a floating charge, his floating charge is on the whole of his assets. In his mind, his business has got value, but not only in his mind, in reality this is a value, and that is why in Article 113, we see -

« *Le fonds de commerce possède une valeur propre qui dépend, pour une part importante, de sa clientèle ou de son aptitude certaine à se constituer une clientèle (...)* »

This is how the intrinsic value to which hon. Fowdar was alluding has been translated into the law. This value now has got its importance. I read with great sadness, last week, a notice in the paper, a very famous *pâtisserie* which has been put in receivership. Okay, the business has fallen through bad times for whatever reason, and the bank has called the receiver. I am very sad because I used - many of us, I am sure - to go and buy little *friandises* at that place. I do not want, of course, to mention the name. Unable to pay the bank, a receiver manager has been appointed, and the receiver has decided, of course, that the business should be closed down.

What is going to be sold? Two refrigerators, one cooker, three shelves, two tables and chairs, or whatever it is. But, surely, that business cannot be reduced to tables and chairs! That business cannot be reduced to mere *meubles corporels*, what you see. There are the employees, and these employees know the trade. There is the name, the way in which you cook these cakes, the way in which you present these. Now, this trader would have been able to put this *en gage, le nantissement*. *Nantissement* is a word which means *gage*. And the *fonds de commerce* that receiver or the banker will be selling, not the table and the chairs, but the whole *fonds de commerce* with its intrinsic value so that if somebody else buys it, he will buy not only the *emplacement*, the table and the chairs, but also the trade name. They will keep the name, also the clientele, what is also called *l'achalandage, la clientèle de passage*. Therefore, when this is sold, it is sold at value as written in Article 113 and that is a great insertion in our law.

I was talking of the empowerment, but not only empowerment of all traders; this also is one step in gender equality. I remember the days when married women were not allowed to have bank accounts without the consent of their husbands, could trade, could not do anything, were *incapables*. They were *incapables* in law; in reality, it was a different matter, of course.

Great steps have been done. I have on my left, one of those, who, together with hon. Paul Bérenger, together with Sir Seewoosagur Ramgoolam and others, Mrs Aumeeruddy-Cziffra and all that, who pushed the reform of the *Code Civil*, the *Code Napoléon*, as it was called at that time, in order to abolish all these barriers and this has enabled women to hold their bank accounts and to trade. Women have their own business but, sometimes the husband has the business. This business, perhaps a little shop, it has got Trade Licences, it has got licence to sell alcohol, a rare commodity because if you have got a small shop and you have the license to trade in alcohol, of course, the value of your business is higher. What happens normally in *petit commerce*? This is why I said, for the big companies, there is no problem; they have got company law. If they have got the Companies Act, they have got the *Code de Commerce* with the *Société à Responsabilité Limitée*, the *Société en commandite* and all these *Sociétés*. But for the *petit commerçant*, he starts his business, his young wife is with him, they start trading together. The husband builds up the business and the wife helps him in the business. They are only two because they cannot have employees. Gradually, it becomes a supermarket, it becomes known as whatever name. Everybody knows this name, and the husband and wife work together.

After 15 years, 20 years, there is a divorce. How do you split the property? What is happening today? Because today, in the State of the Law, when there is a divorce, there are only the tangible assets to be valued: the building, the spices, the rice, the milk which is the stock. Now, you can indemnify the wife, order the husband to indemnify the wife, and I hope that there will be parallel changes in the Divorce and Judicial Separation Act or even in the *Code Civil*, in order to follow what is happening in the *Code de Commerce*, because now the *Fond de Commerce* has got its value. It can be sold; it can be given as a guarantee for credit. It can be transmitted to the heirs who will form a *Société* to run that business. In France, it was done, as the Attorney General said, in 1909, and then, they inserted new Articles in the *Code de Commerce*. In Mauritius, now we are doing. It is a new beginning; it is a new beginning for *ti-dimounes*.

Now, under this Government, history is being made in the wake of the Budget so that the small people of this country can aspire to a new life.

Thank you, Madam Speaker.

(4.34.p.m.)

The Attorney General, Minister of Justice, Human Rights and Institutional Reforms (Mr M. Gobin): Madam Speaker, I wish to thank all my hon. colleagues who have intervened on the Bill.

I do not have much to say, except that Government will make sure that this new legislation is put in practice, the necessary administrative framework, the necessary architecture. Just to name one, with the Registrar General having to keep specific register for the *fonds de commerce* which is pledged, for instance. Once all this is put in place, then, this Bill will be proclaimed so that there is this new beginning mentioned by the hon. Deputy Prime Minister for our traders.

With these words, Madam Speaker, I, once again, commend the Bill to the House.

Question put and agreed to.

Bill read a second time and committed.

COMMITTEE STAGE

(Madam Speaker in the Chair)

THE CODE DE COMMERCE (AMENDMENT) BILL

(No. IV OF 2018)

Clause 1 ordered to stand part of the Bill.

Clause 2 (New Titre Huitième inserted in the Livre Premier of the Code de Commerce)

Motion made and question proposed: “that the clause stand part of the Bill.”

Mr Gobin: Madam Chairperson, I move for the following amendments in clause 2 –

- “(a) in the proposed new article 149, by deleting the words “journal habilité à recevoir des annonces légales” and replacing them by the words “quotidien mauricien et dans un registre public tenu par le *Registrar-General* à cet effet”;

- (b) in the proposed new article 150, in alinéa 2, by deleting the words “du contrat de location-gérance prescrites par les dispositions de” and replacing them by the words “de l’avis mentionné à”;
- (c) in the proposed new article 151, by deleting the words “du contrat de location-gérance” and replacing them by the words “susmentionnée à l’article 149”;
- (d) in the proposed new article 162, in alinéa 2, by deleting the words “l’article 63” and replacing them by the words “l’article 163”.

Amendments agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Clauses 3 to 5 ordered to stand part of the Bill.

The title and enacting clause were agreed to.

The Bill, as amended, was agreed to.

On the Assembly resuming with Madam Speaker in the Chair, Madam Speaker reported accordingly.

Third Reading

On motion made and seconded, the Code de Commerce (Amendment) Bill (No. IV of 2018) was read a third time and passed.

ADJOURNMENT

The Deputy Prime Minister: Madam Speaker, I beg to move that this Assembly do now adjourn to Tuesday 17 July 2018 at 11.30 a.m.

Mr Roopun rose and seconded.

Question put and agreed to.

Madam Speaker: The House stands adjourned.

At this stage the Deputy Speaker took the Chair.

The Deputy Speaker: Hon. Hurreeram!

MATTER RAISED

(4.39 p.m.)

ELDERLY – IMPROVEMENT & ENHANCEMENT FACILITIES

Mr M. Hurreeram (First Member for Mahebourg & Plaine Magnien): Merci, M. le président, de me donner l'opportunité de présenter ce *specific matter* cet après-midi. Je suis là devant vous pour la raison j'ai été voté pour être dans cette Chambre pour amener des idées et pour en débattre. Je pense que la population qui nous regarde à travers la télévision prendra note de ceux qui sont payés des deniers publics et qui n'ont pas le courage nécessaire d'être dans la Chambre pour en débattre.

Mr Deputy Speaker, Sir, the specific matter, which I am raising today is addressed to the hon. Minister of Social Security, National Solidarity, and Environment and Sustainable Development and pertains to our ageing population. Growing life expectancy is increasing the number of people in the ageing bracket. In Mauritius, it seems that every time the term 'ageing population' crops up, the focus is immediately on retiring age and old age pension, more specifically, on whether we should increase the retiring age or have a targeted approach on payment of Basic Retirement Pension.

I wish to point out that I am not saying that we are wrong in trying to find the right mechanism for economic well-being of our senior citizens. Rather I fear that by focusing on this particular aspect, we are missing out on the joy and opportunities that our society can derive from an ageing population. On that account, instead of adopting a close approach on ageing and perceiving this phenomenon as a burden, let us take a brand new and open perspective that can help overcome the negative views of the stereotype associated with growing old.

The generation of people, men and women in their late thirties and forties, like ourselves here, would recall the time spent in the care of grandparents. The period seems like a golden age where we grew and experienced life around our grandparents and took part in activities and games which enabled us to gain maturity and be who we are today. It is sad that many from this present generation are not able to enjoy and even make such treasured memory with their own grandparents. Many among us, I am sure, have been seen or live with senior citizens full of life and energy for whom *la vie commence vraiment à 60 ans*. They joint elderly associations, engage in new activities and tour the country. Sometimes, our senior citizens even travel abroad to discover unknown territories and make new experiences. We also have those who contribute to their family and to society by dedicating their time by babysitting or volunteering, among others.

Moreover, Mr Deputy Speaker, Sir, we have senior citizens who, for economic or personal reasons, choose to go on working or start a new job or a new business venture. We have those who enrol in education courses trying to quench their thirst for knowledge. We all have seen many of our *tantines* either being *marchands ambulants* around our towns and cities or setting up a table in front of their house, selling vegetables and fruits, which they have themselves cultivated. They even add value to their products by providing already cleaned, peeled, cut into pieces, ready to cook *brède songes* or jackfruits.

Nevertheless, we have senior citizens who have difficulties to make ends meet and live in deplorable conditions. Others, unfortunately, have poorer health. They are either facing chronic health conditions or are stuck in their bed or at home because of their physical limitations. Some are suffering from dementia and others from Alzheimer.

Mr Deputy Speaker, Sir, our *grands dimounes* have always been hard working, making many sacrifices for their children and grandchildren, which, in turn, have benefited the Mauritian society economically and socially. More importantly, their example can even now guide us and teach us some lessons of life. I would hence ask the hon. Minister, if he would consider, a more open strategy that would cover every conceivable angle to ageing. We could give people aged 55 and above the chance to pursue their interest in a meaningful way by learning particular skills and even fulfilling their dream of studying at a university and find a new career. The University of Third Age is offering such opportunities to some elderly. Those learning and wishing to share their knowledge could become part-time teachers themselves, others could enrol as community workers and help their fellow senior citizens or even children on a part-time basis by providing emotional, social and psychological care, which only a grandfather or a grandmother can provide.

Another initiative might be enabling people who are fit enough after that age of retirement to continue their career, but with a lighter load, for example, retirees from the education sector might opt to offer remedial teaching to those students lagging behind or are in need of special care on a one-to-one basis or in small groups. By enabling our elders to remain active, we would contribute to the slowdown of Alzheimer and a decrease in isolation associated with old age, which negatively affects their health.

Mr Deputy Speaker, Sir, we need constructive outlooks and devise proper lines of actions to address the problem faced by unhealthy elderlies. We could have the creation of pool of social carers, mechanism of mutual support and developing and using new

technologies. In addition, the strategy on ageing should attend on the ways and means to enable our population to age gracefully.

The high incidence of NCDs as well as the impact of NCDs, multi-morbidity on the ageing population could be devastating. Healthy lifestyle should become deeply rooted in the population psyche. The Prime Minister relentlessly, at every occasion, calls on the population to take better care of their health. Leading by example, the hon. Prime Minister participated in the 12-hour National relay for Health and Fun '*Bouzer Maurice*', organised by the Ministry of Youth and Sports, to raise awareness on the importance of physical fitness as part of a healthy lifestyle.

It is thus crucial, Mr Deputy Speaker, Sir, that we promote good health among Mauritians with a view to fostering health and quality in later life stages and preventing negative consequences. Mr Deputy Speaker, Sir, as the hon. Minister himself stated, I quote –

“One of the overriding concerns of this Government is the well-being and the welfare of our senior citizens.”

I, therefore, hope that the hon. Minister would consider the development of a holistic approach and broader strategies on the issue of ageing which will encompass health, education, training, leisure and any other domain that might prove enhancing and empowering for our elderly.

Thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: Hon. Minister of Social Security!

(4.48 p.m.)

The Minister of Social Security, National Solidarity, and Environment and Sustainable Development (Mr E. Sinatambou): Mr Deputy Speaker, Sir, I welcome the specific matter raised by the hon. Chief Whip at Adjournment Stage on our elders, in particular because it allows me to reiterate the commitment of this Government and of my Ministry towards ensuring maximum protection and facilities to our elderly so that they may lead an active and healthy life in full enjoyment of their rights.

And here, Mr Deputy Speaker, Sir, allow me, please, to quote the now Vice-Prime Minister, Minister of Local Government and Outer Islands and borrow six lines from the preface that she wrote and I quote. She said -

“The term ‘population ageing’ has loomed large around the world over the recent years and it is considered to be a major issue in most countries. Mauritius is currently not an exception to the global phenomenon of ageing. However, increasing longevity is one of humanity’s greatest achievements. Indeed, population ageing should be a cause for celebrations. The opportunities are as endless as the contributions that an economically active, secure and healthy ageing population can bring to society.”

Now, I have tried to go back to a report, Mr Deputy Speaker, Sir, of the Department of Economic and Social Affairs Population Division of the United Nations, dated 2015, on World Population Ageing. According to that report, it is quite clear that the world’s population is ageing and that globally the number of persons aged 60 and above is expected to more than double from 901 m. people in 2015 to more than 2.1 billion in 2050. And the trend is likely to be the same in Mauritius. However, we have to appreciate that our elderly persons have contributed enormously to the development of this country.

Everyone must recognise that the development we see today is because of the hard work of our elders. We should tuck on their knowledge and experience. I personally, Mr Deputy Speaker, Sir, strongly believe that the progress of a country rhymes with the preservation of its values and our older persons are indeed the personification of these values and cultures that have allowed Mauritius to stay united all these years.

To go back on the very essence of what the hon. Chief Whip has mentioned concerning strategy for the elderly, I would like to inform the House that my Ministry is indeed working on different segments of a holistic strategy for the elderly. Part of it is about the creation of an enabling environment to enhance the quality of life of the elderly that is done through the implementation of the *service de proximité* through the issue of all those assistive devices and monthly domiciliary visits to those elders who fall within the eligibility parameters.

For the leisure of our elderlies, we already have three recreation centres and the fourth one is currently in construction in Riambel. We have 20 Elderly Day Care Centres which are in operation to cater for the entertainment of our elders and I must, here, show my appreciation for another of the budget measures taken by the hon. Prime Minister, Minister of Finance and Economic Development who, when he came to know that out of those 20 Elderly Day Care Centres there was not one in the western part of the country and he decided

that there should be two more Elderly Day Care Centres, one in Bambous and one in Chemin Grenier.

So, apart from this enabling environment to enhance the quality of life of the elderly, there is now this endeavour to foster partnership with the corporate sector. New avenues are currently being implemented to promote public/private partnership to meet the specific needs of elders through the CSR Programs. For instance, Mr Deputy Speaker, Sir, during the financial year 2017/2018 the National CSR Foundation has funded five projects targeting the elderly for an amount of Rs3.7 m. and those projects being implemented by NGOs.

The CSR Foundation is currently preparing for its second call for proposals and indeed will give due consideration for projects targeting the elderly. Another area where my Ministry has given great importance is the enhancement of protection and security to our elderly. The Protection of Elderly Persons of 2005, Mr Deputy Speaker, Sir, has already been amended in order to empower officers dealing with reported cases of elderly abuse to summon any suspect party if he or she does not cooperate or does not respond.

Failing to attend to any such summons may render the culprit liable to fines or imprisonment. The Elderly Watch Committees, another particular entity which is geared towards ensuring the protection of our elders has seen the committee members increased from seven to ten in each committee in order to help combat elderly abuse and this adds to the two hotlines, namely the 199 and the 172 where any individual can report a case of elderly abuse.

Another area of intervention in dealing with the improvement and enhancement of the facilities to be provided to our elderly is the enhancement of the social fabric through the bridging of the intergenerational gap. Indeed, what we have noted, Mr Deputy Speaker, Sir, is that sometimes there is not enough interlinkage between the younger generations and the elderly and the Senior Citizens Council, together with my Ministry have been involved in organising a number of intergenerational activities, bringing together our elderly from the Senior Citizens Council and students from the younger grades of secondary schooling.

The last three areas where we are working are certainly, first one, the fostering of a culture of contributory pension among employees for better ageing. What we are trying to do is to create awareness among employees and employers to join Pension Schemes in order to ensure that at the time of retirement, our elderly have sufficient financial means to meet the requirements of their old age, because we know that as their life expectancy has arisen their

needs, let alone their wants, will also increase. So, fostering a culture of contributory pension will, indeed, give them a better life and a better living after retirement.

The last two, Mr Deputy Speaker, Sir, are awareness campaigns and such activities in order to encourage our elders to have an active and productive ageing, and finally, we are re-engineering the institutional set-ups for elderly. All this, Mr Deputy Speaker, Sir, to say that all in all, I will conclude by saying that I certainly agree with the hon. Chief Whip that the development of a more holistic approach is certainly, not only, encouraged by my Ministry, but that we will pursue in that direction in order to develop broader strategies on the issue of ageing, which will encompass health, education, training, leisure and all other domains, which can enhance the lives of and empower the elderly of our country.

I thank you, Mr Deputy Speaker, Sir.

At 4.58 p.m., the Assembly was, on its rising, adjourned to Tuesday 17 July 2018 at 11.30 a.m.

WRITTEN ANSWERS TO QUESTIONS

VEHICLE EXAMINATION STATIONS – CONTRACTS

(No. B/581) Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East) asked the Minister of Public Infrastructure and Land Transport whether, in regard to the Vehicle Examination Centres, he will, for the benefit of the House, obtain from the National Transport Authority, information as to –

- (a) if the contracts with the private operators have been signed and, if so, when and, if not, why not, and
- (b) the quantum of –
 - (i) money paid by Government to the private operators, and
 - (ii) levy paid to Government by the private operators, since they have started operation to date.

Reply: I wish to inform the House that the examination of vehicles is being conducted at the three private examination stations, namely, Autocheck Limited at Plaine Lauzun, SGS Limited at Forest Side and Eastern Stone Crusher Limited at Laventure since 03 November 2016.

In fact, when I assumed office at the Ministry in December 2014, I took note that the previous Government had already approved the conditions for the operation of the centres

and that, following an Expression of Interest exercise and a Request for Proposal, three selected Stations were awarded the contract on 29 April 2013 with conditions. This Government pursued negotiations with the selected companies and a Letter of Comfort constituting a binding agreement between the Government, through the National Transport Authority (NTA), and the authorised Examiners was issued on 20 June 2016.

Coming to part (a) of the question, I wish to point out that the operations of the private Vehicle Examination Stations are being closely monitored. Their operational licences have been renewed for one year in December 2017. As agreed by the parties, a Contract Agreement defining the contractual obligations of the Private Examination Stations and the NTA, which will be for a period of 25 years, will have to be signed. However, during the transitional period, there had been issues in terms of infrastructural facilities for examination of vehicles, installation of CCTV cameras at the three Stations and other teething problems.

Furthermore, there had been various allegations of malpractices which have been reported on their operational activities. For the sake of transparency, accountability, road safety and in the best interest of all, Government has, on 06 April 2018, agreed to the regionalisation of their operations in consultation with the operators.

The draft Contract Agreement has been prepared and vetted by the Attorney General's Office. A few policy issues forming part of the Letter of Comfort have to be sorted out and Government will have to consider the financial implications thereof before the finalisation and signature of the 25-year Contract Agreement.

I wish to point out that discussions pertaining to these policy issues have already been initiated at the level of my Ministry, the NTA and the authorised Examiners. The Contract Agreement between the NTA, on behalf of Government, and the three private Vehicle Examination Stations will be signed once all the policy issues are trashed out.

As regards part (b) of the question, on quantum of money paid by Government, I am informed by the NTA that a total sum of Rs84, 851,525 (that is, around Rs4.7 m. monthly) has been paid to the private operators for the period November 2016 to April 2018. This amount represents the subsidy of 50% increase in the examination fees which was agreed with the three private operators prior to their coming into operation and approved by Government.

I am further informed that, with regard to levy payable to Government, a total sum of Rs40, 433,895 (that is, around Rs2.25 m. monthly) has been paid by the three private operators since the inception date to April 2018. This amount represents the levy of 20% as agreed by Government in respect of the turnover of the private operators.

SCHOOLS - SCIENCE SUBJECTS – LABORATORY FACILITIES

(No. B/595) Mr G. Lepoigneur (Fifth Member for Beau Bassin & Petite Rivière) asked the Minister of Education and Human Resources, Tertiary Education and Scientific Research whether, in regard to the schools which have no laboratories or have unequipped laboratories, she will state when consideration will be given for the setting up of equipped laboratories thereat to allow the students getting on with the science subjects.

Reply: I am informed that, with regard to science subjects, secondary schools are equipped with the required science laboratories for the teaching of science subjects.

As far as primary schools are concerned, in accordance with the new NCF for Grades 1 to 6, science is taught in Grades 3 to 6. The NCF does not require specifically laboratory facilities for teaching of science at the primary level. However, I am informed that there is a science laboratory in some 58 primary schools. In schools with no such facility, teachers make use of Science Kits for enhancing the teaching and learning of Science.

PORK MEAT – IMPORTATION

(No. B/612) Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes) asked the hon. Minister of Agro-Industry and Food Security whether, in regard to the Import Permit Committee, he will, for the benefit of the House, obtain therefrom, information as to the reasons why it had rejected the applications for the importation of pork meat in 2017.

Reply: I am informed that 61 applications were received at the level of the Import Permit Committee for the import of 985 tonnes of frozen pork meat in 2017. Out of these, 51 applications have been approved for the import of 835 tonnes of pork meat for processing.

Ten applications representing 150 tonnes of pork meat were rejected as they did not satisfy the established criteria for allocation of import permit.

CORAL REEF REHABILITATION PROGRAMME - IMPLEMENTATION

(No. A/12) Mrs D. Selvon (Second Member for GRNW & Port Louis West) asked the Minister of Social Security, National Solidarity, and Environment and Sustainable Development whether, in regard to the project announced publicly in Mauritius and in international environment events in 2015 by his Ministry to systematically replant corals where they have been depleted or seriously damaged, he will give a detailed current status thereof, indicating where same have been implemented as at to date by his Ministry.

Reply (Minister of Ocean Economy, Marine Resources, Fisheries and Shipping):

Coral rehabilitation and coral farming projects were started by the Albion Fisheries Research Centre and the Mauritius Oceanography Institute of my Ministry since the bleaching events which occurred in 1998.

Since then these institutions have been undertaking pilot projects for culturing corals which are fast growing, bleaching resistant and are rare and threatened species.

Following the success obtained, small scale ocean based coral nurseries have been established.

Under the coral reef rehabilitation programme, the Albion Fisheries Research Centre has set up several coral nurseries at Blue Bay, Balaclava and Trou aux Biches. Overall, about 3,500 reef building coral fragments have been fixed on 35 coral tables.

My Ministry is also exploring new techniques and technologies for coral reef rehabilitation. Under the budgetary measure for the financial year 2017-2018, my Ministry has been allocated a budget of 8.2 million MUR for the period 2017 to 2020 to promote coral farming by fishermen and SMEs by setting up of sea-based coral farms for developing ornamental corals for the tourism sector, aquarium market and high-end jewellery manufacturing for local market. My Ministry has recently initiated a “Community-Based Coral Culture Project for the Republic of Mauritius”. The project is being carried out jointly by the Mauritius Oceanography Institute (MOI) and Albion Fisheries Research Centre (AFRC).

The project is being implemented at four selected locations (North-Grand Gaube, East-Quatre Soeurs, South- St Martin, Bel Ombre and West-La Gaulette) around the island.

Field surveys and interviews of coastal communities and fishermen have been undertaken for the identification of suitable sites where coral farms would be set up. Consequently, 65 participants have already been enlisted, 34 at Quatre Soeurs and 31 at La Gaulette. Six nurseries (three at Quatre Soeurs and three at La Gaulette) have already been set up and put at sea. “Demo Coral Farms” comprise approximately 2,500 and 2,600 coral fragments at Quatre Soeurs and La Gaulette respectively.