



SIXTH NATIONAL ASSEMBLY

PARLIAMENTARY

DEBATES

(HANSARD)

(UNREVISED)

FIRST SESSION

TUESDAY 24 JULY 2018

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(Formed by Hon. Pravind Kumar Jugnauth)

Hon. Pravind Kumar Jugnauth	Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development
Hon. Ivan Leslie Collendavelloo, GCSK, SC	Deputy Prime Minister, Minister of Energy and Public Utilities
Hon. Sir Anerood Jugnauth, GCSK, KCMG, QC	Minister Mentor, Minister of Defence, Minister for Rodrigues
Hon. Mrs Fazila Jeewa-Daureeawoo	Vice-Prime Minister, Minister of Local Government and Outer Islands
Hon. Seetanah Lutchmeenaraidoo, GCSK	Minister of Foreign Affairs, Regional Integration and International Trade
Hon. Yogida Sawmynaden	Minister of Technology, Communication and Innovation
Hon. Nandcoomar Bodha, GCSK	Minister of Public Infrastructure and Land Transport
Hon. Mrs Leela Devi Dookun-Luchoomun	Minister of Education and Human Resources, Tertiary Education and Scientific Research
Hon. Anil Kumarsingh Gayan, SC	Minister of Tourism
Dr. the Hon. Mohammad Anwar Husnoo	Minister of Health and Quality of Life
Hon. Prithvirajsing Roopun	Minister of Arts and Culture
Hon. Marie Joseph Noël Etienne Ghislain Sinatambou	Minister of Social Security, National Solidarity, and Environment and Sustainable Development
Hon. Mahen Kumar Seeruttun	Minister of Agro-Industry and Food Security
Hon. Ashit Kumar Gungah	Minister of Industry, Commerce and Consumer Protection
Hon. Maneesh Gobin	Attorney General, Minister of Justice, Human Rights and Institutional Reforms
Hon. Jean Christophe Stephan Toussaint	Minister of Youth and Sports
Hon. Soomilduth Bholah	Minister of Business, Enterprise and Cooperatives

Hon. Marie Roland Alain Wong Yen Cheong, MSK	Minister of Social Integration and Economic Empowerment
Hon. Premdut Koonjoo	Minister of Ocean Economy, Marine Resources, Fisheries and Shipping
Hon. Soodesh Satkam Callichurn	Minister of Labour, Industrial Relations, Employment and Training
Hon. Purmanund Jhugroo	Minister of Housing and Lands
Hon. Marie Cyril Eddy Boissézon	Minister of Civil Service and Administrative Reforms
Hon. Dharmendar Sesungkur	Minister of Financial Services and Good Governance
Hon. Mrs Roubina Jadoo-Jaunbocus	Minister of Gender Equality, Child Development and Family Welfare

PRINCIPAL OFFICERS AND OFFICIALS

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Deputy Speaker	Teeluckdharry, Hon. Kalidass
Deputy Chairperson of Committees	Jahangeer, Hon. Ahmad Bashir
Clerk of the National Assembly	Lotun, Mrs Bibi Safeena
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Serjeant-at-Arms	Pannoo, Mr Vinod

MAURITIUS

Sixth National Assembly

FIRST SESSION

Debate No. 24 of 2018

Sitting of Tuesday 24 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. Prime Minister's Office

- (a) The Digest of International Travel & Tourism Statistics 2016.
- (b) Loan Agreement between the Republic of Mauritius and the Kuwait Fund for Arab Economic Development for the construction and equipping of Flacq Teaching Hospital "Phase-1".
- (c) Loan Agreement between the Republic of Mauritius and the Arab Bank for Economic Development in Africa for the Flacq Teaching Hospital Project.
- (d) Loan Agreement between the Saudi Fund for Development and the Republic of Mauritius for the Flacq Teaching Hospital Project.
- (e) The Report of the Director of Audit to the Board of Trustees of the Media Trust. (In Original)

B. Ministry of Technology, Communication and Innovation

- (a) The Independent Broadcasting Authority (Amendment of Schedule) Regulations 2018. (Government Notice No. 87 of 2018)
- (b) The Independent Broadcasting Authority (Licence Fees) (Amendment) Regulations 2018. (Government Notice No. 88 of 2018)

C. Attorney General's Office and Ministry of Justice, Human Rights and Institutional Reforms

The Financial Statements of the Curatelle Fund for the year ended 30 June 2017. (In Original)

D. Ministry of Financial Services, and Good Governance

The Annual Report 2016-2017 of the National Productivity and Competitiveness Council, Mauritius.

ORAL ANSWERS TO QUESTIONS

Madam Speaker: Hon. Members, the Table has been advised that PQ B/675 in regard to the treatment and rehabilitation of children and young drug addicts will be replied by the hon. Minister of Health and Quality of Life.

PQ B/719 in regard to the pay and conditions of service of the employees of the Government Lotteries will be replied by the hon. Prime Minister, time permitting.

Hon. Baboo!

MHC – DIRECTOR - RECRUITMENT

(No. B/673) **Mr S. Baboo (Second Member for Vacoas & Floreal)** 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 Mauritius Housing Company Ltd., he will, for the benefit of the House, obtain therefrom, information as to when the Director thereof will be recruited.

The Prime Minister: Madam Speaker, it is the Board of Directors of the Mauritius Housing Company Ltd which is empowered to appoint a Managing Director.

I am informed that the Board of the Mauritius Housing Company Ltd has already initiated the recruitment process to fill this post, and an interview exercise has already been carried out for the identification of a suitable candidate. In fact, according to section 46 of the Banking Act, no financial institution shall appoint any person or reappoint any person as a senior officer, unless the Central Bank is satisfied that the person to be appointed is a fit and proper person.

The Mauritius Housing Company Ltd will, therefore, have to adhere to this legal requirement prior to appointing the Managing Director.

Mr Baboo: Does the hon. Prime Minister find it normal that since 2015, there is no Director at the MHC?

The Prime Minister: Madam Speaker, there have been three previous exercises for recruitment of a Managing Director. Unfortunately, all the three exercises have not brought the required result of getting the right person. In fact, when the PMSD also was in Government, there was an exercise that was carried out and, unfortunately, it did not come to

a positive conclusion. So, there is now an ongoing exercise and we hope that, at the end of the day, we shall be able to recruit one.

Mr Baboo: Well, I do agree that the PMSD was there too. But since an Expression of Interest was made in 2015 and a recruitment agent appointed, and two candidates were selected for the post, can the hon. Prime Minister say where matters stand, please?

The Prime Minister: 2015, Madam Speaker, I just answered that three exercises have been carried out and, unfortunately, the Board did not come to a decision, as it was not able to recruit the right person.

Mr Baboo: Can the hon. Prime Minister state why the officer in charge has not yet been promoted to Ag MD as in the recent case whereby an officer in charge has been rocketed to Ag CEO with a fat salary?

The Prime Minister: Well, the present officer in charge is the Head of Finance, and he is presently acting because obviously we need somebody to act as officer in charge pending the recruitment of a Managing Director.

Madam Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: Yes, thank you Madam Speaker.

The officer in charge has been in post for the last two years. Can I ask the hon. Prime Minister how he is faring? Because given the topsy-turvy recruitment process, is he a fit person? Why is he not appointed after two years of performing that duty?

The Prime Minister: There are two issues in that question, Madam Speaker. First of all, I shall need to ask the MHC to tell me how he is faring. Secondly, there has been an open advertising for the recruitment exercise. If the hon. Member is saying that the person is the best one, he should have applied. I do not know whether he did apply, but he should have applied and the selection exercise would have looked into his qualifications, his experience, and if he was the best, he would probably have been offered the job.

Madam Speaker: You have a last question, hon. Baboo? Yes.

Mr Baboo: Is the hon. Prime Minister aware that the present Chairperson is behaving as an executive Chairperson, indulging in the day-to-day management of the affairs of the MHC? Is he behind the curtain for not filling the post, so that he remains the *maître à bord* of the MHC?

The Prime Minister: Madam Speaker, he is not behaving as the executive Chairperson. He is doing his job in accordance with his responsibility. He is the Chairperson, there is a Board; he is not the only one deciding. There is the whole Board, and there are officers of Ministries also represented on the Board. There are independent directors also. I must say that it is unfortunate that, so far, the MHC has not been able to recruit somebody to be a CEO.

FINANCING OF POLITICAL PARTIES BILL - INTRODUCTION

(No. B/674) Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to electoral reforms, he will state where matters stand as to the –

- (a) finalization of the Financing of Political Parties Bill, indicating if same will be circulated prior to the introduction thereof in the House, and
- (b) other issues in the Terms of Reference of the Ministerial Committee set up to look thereinto.

The Prime Minister: Madam Speaker, as I stated in my reply to Parliamentary Questions B/61 and B/66 on 03 April 2018, the Financing of Political Parties Bill is currently under preparation at the Attorney General's Office.

In regard to consultations and circulation of the Bill prior to its introduction into the National Assembly, I indicated that I am personally in favour of having appropriate consultation on the draft Bill, but I also stated that I would seek the guidance of Cabinet on the matter before proceeding.

Madam Speaker, in regard to part (b) of the question, I stated that the Ministerial Committee on Electoral Reform had also been addressing the other issues in its Terms of Reference.

As a matter of fact, the Committee has already submitted its report to me with proposals on, *inter alia*, the introduction of a dose of Proportional Representation in the National Assembly, enhancing women representation and on the issue of mandatory declaration of community by prospective candidates at a general election. The proposals

made by the Ministerial Committee are currently being examined at the level of my Office before submission to Cabinet.

Madam Speaker: Hon. Dr. Boolell!

Dr. Boolell: Thank you very much, Madam Speaker.

Since, this is an issue of high importance, this matter needs to be highlighted and there is a call for debate at the bar of public opinion. Can I ask the hon. Prime Minister as to when - I am not asking for an exact date, but at least he should give us some indication - the proposed amendments to the electoral reform will be circulated and the draft legislation in respect of financing of political parties?

The Prime Minister: Well, Madam Speaker, once Cabinet will have agreed on a draft proposal, of course, it will be circulated, and it will be made public.

Madam Speaker: Yes, hon. Dr. Boolell!

Dr. Boolell: Is the hon. Prime Minister aware that the public is sick and tired of hearing the one and the same reply? I think the hon. Prime Minister is duty-bound to inform the public as to when. We are not asking for an exact timeline, but at least he should give clear indication.

The Prime Minister: The hon. Member has been in previous Governments before, and in the different programmes when he was part of the Government, they have been saying that they would conduct an electoral reform. From 2005 to 2014, was not the people sick and tired? And he was not even able to bring a draft Bill before this House. Now, let us wait and see. Time will tell whether we are only saying things just to say them in the House, or whether we shall come with a Bill before this House. Time will tell.

Dr. Boolell: Time is telling, and it is up to you to come, as Prime Minister, with concrete proposal. Do not hide behind the veil of what happened in the past!

The Prime Minister: Madam Speaker, this is not a question, this is a statement.

Madam Speaker: Hon. Adrien Duval!

Mr A. Duval: Thank you. This was one of the main pledges of the *Alliance Lepep* and we are to understand now from the reply of the Prime Minister that the Ministerial

Committee has not yet made recommendations for financing of political parties, has not yet studied it at all, four years down the line, is that what we are to understand?

The Prime Minister: It is a good thing that the debates are being broadcasted live on TV because I am sure everybody must have listened to my answer wherein I stated that the Ministerial Committee has already made recommendations to me and, that they are being looked into at the level of my Office. And then they will be brought to Cabinet and after that, if there is a consensus, obviously, we will come to this House.

Madam Speaker: Hon. Ameer Meea!

Mr Ameer Meea: Yes, Madam Speaker, there were some information in the Press to the effect that when and, if the reform comes, it will not be applicable for the next general elections, that is normally due in December 2019. So, therefore, can I ask the hon. Prime Minister if he can confirm this information?

The Prime Minister: Madam Speaker, I do not go by the Press. Unfortunately - I must say unfortunately - there are so much misinformation that is being published on and off, not to say on everything, but on a number of issues. First of all, we shall have to discuss at the level of Cabinet and I cannot disclose anything with regard to discussions that are ongoing between Ministers. So, let me finalise, let me come with a proposal and then we shall see whether it is going to be applicable next election, after the other election, which election; we will see.

DRUG ADDICTION – CHILDREN & YOUTH – TREATMENT & REHABILITATION

(No. B/675) 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 children and young drug addicts, he will state Government policy as regards the treatment and rehabilitation thereof pending the implementation of the National Drug Control Master Plan.

(Withdrawn)

GOVERNMENT & PARASTATAL BODIES - LOANS, GRANTS & LINES OF CREDIT

(No. B/676) Ms M. Sewocksingh (Third Member for Curepipe & Midlands) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to loans, grants and lines of credit taken/received by Government, parastatal bodies, Government-owned companies or private companies of which Government is a shareholder, since 2015 to date, he will table the list thereof, indicating in each case the –

- (a) type thereof;
- (b) amount received;
- (c) name of receiving and granting institution, respectively;
- (d) rate of interest applicable, if any, and
- (e) terms of repayment thereof.

The Prime Minister: Madam Speaker, on several occasions, I have informed the House that information pertaining to companies and those listed on the Stock Exchange of Mauritius and which are governed by the provisions of the Companies Act and the Securities Act cannot be disclosed.

Madam Speaker, the information sought by the hon. Member with regard to loans, grants and lines of credit taken/received by Government and parastatal bodies is being compiled and will be placed in the Library once the compilation thereof will be completed.

Madam Speaker: Hon. Ms Sewocksingh!

Ms Sewocksingh: I do understand that the documents are being compiled, but can the hon. Prime Minister explain the rationale of borrowing from international markets when the local market has excess of liquidity and billions have been spent in mopping exercises?

The Prime Minister: Well, the hon. Member has asked a question about all the loans and grants, and lines of credit that have been taken by Government; they are being compiled. Let me, myself, have the information and then I shall be able to answer with regard to any of the loans or grants or lines of credit which has been taken by Government.

Ms Sewocksingh: In line with this question, Madam Speaker, when the documents will be ready, can the hon. Prime Minister also state to the House how much debt these loans, lines of credit, grants will represent per inhabitant, per head?

The Prime Minister: When the information is available, of course, I will answer.

Madam Speaker: Hon. Lepoigneur!

Mr Lepoigneur: Can the hon. Prime Minister state if part payment or full payment guaranteed by Government is accounted in the public debt of the country?

The Prime Minister: Sorry?

Mr Lepoigneur: Part payment or full payment guaranteed by Government accounted in the public debt of the country?

The Prime Minister: Well, we just had the debates on the Budget. All the figures have been provided to this House in all transparency and I can assure the hon. Member - in fact, right now, we are having a mission from the IMF, and I hope that the hon. Leader of the Opposition has already written to the IMF as he has stated.

(Interruptions)

He has! Anyway, I will get the information from the team of the IMF. So, we shall wait for the reply. But then, as I said, I can assure the hon. Member that we are going according to the rules and if there is anything that is not according to the rules, I am sure that the IMF and this team that is present will point it out to us. I am also informed that the percentage of domestic debt of Government stands at 80% compared to 20% for foreign debt.

Madam Speaker: Hon. Rutnah!

Mr Rutnah: Thank you, Madam Speaker. On the same issue of loans, grants and lines of credit taken, since the hon. Prime Minister has stated that there is information that is being compiled, can I ask in the same vein to compile similar information in regard to loans that were taken by the country since 2005 to 2014, and how those were distributed and used?

Madam Speaker: This is a different question, hon. Rutnah! I am sorry. This has nothing to do with the main question! Yes, hon. Uteem!

Mr Uteem: Thank you, Madam Speaker. During my intervention in the Budget and also we had stated that it is not normal for Government, instead of borrowing, to borrow through private companies, which are owned by the company and guaranteed by the Government. So, by refusing today to give indication as to how much money is being borrowed by these private companies owned by the Government, is not the hon. Prime Minister agreeing with us that there is total opacity now with the financing, with the borrowing made by Government through Special Purpose Vehicles?

The Prime Minister: The opacity is in your head because...

(Interruptions)

I am not refusing to give the answer. You have not listened to me, to what I have said?

Madam Speaker: Hon. Prime Minister, please address the Chair. Do not get into conversations, please!

The Prime Minister: The information is being compiled and I said that it will be laid in the Library of the National Assembly. What more do you want? It will be laid shortly.

Madam Speaker: Hon. Adrien Duval, last question!

Mr A. Duval: Well, does the Prime Minister find it normal that all these Government-owned companies, the SPVs created have not been included under the Schedule of the Public Procurement Act? Does he not, in line with transparency and good governance, think it fit to add these SPVs to the Schedule so that there is accountability, transparency so that we reduce the risk of corruption and all of this?

The Prime Minister: Well, talking about the risks of corruption and so on, Madam Speaker, as I have said, everything is being done according to the rules, according to law. And if there is any specific question with regard to a SPV, the hon. Member can ask because he is talking generally about all the loans.

MINISTRIES & PARASTATAL BODIES - RELATIONS & COMMUNICATION SERVICES - CONTRACT

(No. B/677) Ms M. Sewocksingh (Third Member for Curepipe & Midlands) 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

Public Relations and Communication Services contracts awarded by Ministries, parastatal bodies and Government-owned companies since 2015 to date, he will table the list thereof, indicating in each case the –

- (a) mode of procurement;
- (b) date of award of contract;
- (c) name of contractor;
- (d) duration, and
- (e) contract value thereof.

The Prime Minister: Madam Speaker, the information with respect to the Prime Minister's Office and the Ministry of Finance and Economic Development as well as parastatals which fall under my direct purview is being compiled and will be placed in the Library as soon as the exercise is completed.

In regard to the information in respect of other Ministries and parastatals, the hon. Member may wish to address specific questions to the Ministers concerned.

Madam Speaker, as I stated in my previous reply, information related to Government-owned companies cannot be disclosed.

Madam Speaker: Hon. Ms Sewocksingh!

Ms Sewocksingh: Can the hon. Prime Minister inform the House if there are senior advisers or advisers at the PMO or any other Ministries, if I may say it right now, have other activities rather than being advisers?

The Prime Minister: Well, when I shall have all the information as to whether there are any companies the services of which have been retained by those public or public-owned companies, obviously, I shall look into the shareholding and who are the Directors, and then I shall be able to answer.

Madam Speaker: Yes, hon. Lepoigneur!

Mr Lepoigneur: Can the hon. Prime Minister state to the House if consideration would be given for launching of restricted bids for SME in regard to PR and communication services, contract to Ministries, parastatal bodies and Government and owned by companies?

The Prime Minister: Restricted bidding? Well, generally, I would say I do not feel that there should be a need for restricted bidding, unless there is a reason, a justification for doing so. So, I must know in which case. I cannot answer on a general matter.

Madam Speaker: Hon. Adrien Duval!

Mr A. Duval: Thank you, Madam Speaker. The Prime Minister has replied that he cannot give the information for State-owned Companies. Yet, one of the pledges of Government was Freedom of Information Act. The Prime Minister knows that in the UK, for example, the Government, under the Freedom of Information Act, has to answer to any company it holds shares in. So, how does he reconcile, once again, the fact that he is not willing to answer, yet he has promised to bring a Freedom of Information Bill in this House?

The Prime Minister: Well, it is in our programme. This is also being worked out, whether we shall be able to come up with a Bill, we shall see. But I must remind the hon. Member, he is talking about freedom of information, he also, his party was in Government from 2005 to 2014, where was he then?

(Interruptions)

Madam Speaker: No crosstalking!

The Prime Minister: There was no freedom of information!

GRNW & PORT LOUIS WEST– NDU PROJECTS

(No. B/678) Mrs D. Selvon (Second 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 Constituency No. 1, Grand River North West and Port Louis West, he will give the list of the projects implemented and completed by the National Development Unit thereat since January 2015 to date, indicating the –

- (a) respective costs, and
- (b) projects expected to be implemented by December 2019, indicating in each case, the -

- (i) location
- (ii) cost, and
- (iii) expected completion date thereof.

The Prime Minister: Madam Speaker, the information sought is being compiled and will be placed in the Library of the National Assembly. It concerns projects pertaining to construction and upgrading of roads, construction and upgrading of drains and provision of amenities.

Madam Speaker: Hon. Mrs Selvon!

Mrs Selvon: Would the hon. Prime Minister also state what has been the average total cost per Constituency even if he can table it after?

The Prime Minister: Well, we do not carry out projects and upgrading of infrastructural works Constituency-wise. This is what I have been informed and it has always been done like that in the past at the level of NDU. But, however, we do know whenever there are projects and in which Constituency those projects are being implemented. So, I have asked for the whole list which is being compiled and then we shall see.

Madam Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: Madam Speaker, can I refer the hon. Prime Minister to a particular region in the Constituency, Guibies in Pailles where a young boy lost his life a few months ago ...

Madam Speaker: Sorry, to interrupt the hon. Member. He is asking on Constituency No. 1.

Mr Osman Mahomed: Constituency No. 1. He lost his life because his motorbike went into a pothole which was covered with water on a rainy day. Very silly reason for someone to lose his life! Can I ask the hon. Prime Minister to pay a particular attention to Guibies in Pailles where there was an uproar following that death and to make sure that the roads there are asphalted as soon as possible?

The Prime Minister: Well, I must say it is very unfortunate if this has happened and, of course, we also sympathise with the family of the victim. I would not know if this matter has already been looked into, but whenever I have the information I shall see what is the state of affairs. Well, I am being informed by my officers that, yes, it will be done. Obviously, I

am always cautious. I need to know exactly what kind of work has to be carried out and how it is planned to be carried out.

Madam Speaker: Hon. Armance!

Mr Armance: I also share the views of my hon. friend regarding Pailles and I would like to ask the hon. Prime Minister regarding a project in Constituency No. 1, in the region of Pailles. In June 2017, I had a PQ in this House regarding the football ground that has to be renovated and in his answer, he mentioned that there was a Consultant who has been appointed and the project will be launched soon. It was one year ago. So, I would like to ask him where matters stand and if he can come back to the House regarding the renovation of the football ground at Cité St. Louis, Pailles?

The Prime Minister: Well, this is a specific question with regard to one particular project, Madam Speaker. So, therefore, I shall seek information on that.

FLASH FLOODS - HIGH RISK ZONES

(No. B/679) Mrs D. Selvon (Second 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 Land Drainage System, he will, for the benefit of the House, obtain from the Land Drainage Authority, information as to if the risks of flash floods in the high risk zones identified in Constituencies Nos. 1 and 6, including in Pailles, Pointe-aux-Sables and Fond du Sac, will be addressed.

The Prime Minister: Madam Speaker, for a number of years, flash floods have become an issue of major concern and a number of actions have been initiated to mitigate same. I made a statement on 08 May 2018 regarding flooding problems in Constituency No. 1. I elaborated on the measures pertaining to flooding and also mentioned a number of projects which are ongoing in the regions of Pailles, Vallijee, Cassis, Pointe aux Sables, La Tour Koenig and Richelieu.

Madam Speaker, the issue of land drainage in high risk zones not only in Constituencies Nos. 1 and 6, but in the whole of Mauritius is being addressed. With regard to Pointe aux Sables, Pailles and Fond du Sac, the following measures are being taken -

- (i) 7 drain projects have been completed in the region of Pointe aux Sables for an amount of Rs8 m. since January 2015. Major drain projects estimated at about

Rs46 m. are being implemented at Camp Firinga, Débarcadère and Avenue Crecerelle, Petit Verger. Consultants are already working on the designs of these projects;

- (ii) for the region of Pailles, 8 drain projects have been identified for implementation during this financial year. The necessary clearances are being sought prior to implementation of the projects, and
- (iii) a major drain project estimated at about Rs125 m. is being implemented at Fond du Sac. This site is rather a complex one requiring a number of site specific measures. Designs and drawings have been finalised by the consultant. The Ministry of Housing and Lands is looking into land acquisition and wayleave procedures for 96 plots of land before tenders can be launched.

Madam Speaker, other important measures being taken to address the flooding problem around Mauritius in a more holistic and sustainable manner include the following -

- (i) the Land Drainage Authority (LDA) which has recently been set up has embarked on a project for the preparation of a land drainage Master Plan for Mauritius and Rodrigues which will re-assess the flood risks and propose long-term remedial actions in an integrated manner. Towards this end -
 - (a) the *Agence Française de Développement* (AFD) has agreed to provide co-financing as well as technical assistance. The AFD has already invited proposals for consultancy services, and
 - (b) the Land Drainage Authority has already initiated procedures for the procurement of a Digital Elevation Model (DEM) of high resolution which will be used to derive information such as flow rate and depth of water and which will be a prerequisite for the preparation of the Land Drainage Master Plan;
- (ii) the Local Government Act has also been amended on 17 July 2018 to strengthen legal provisions pertaining to illegal constructions and developments through very strict penalties. Provisions have also been made for mandatory pulling down orders for illegal developments;

- (iii) Rs75 m. has been earmarked under the National Environment Fund for strengthening the capacities of Local Authorities in terms of equipment to ensure a regular maintenance of drains and water courses, and
- (iv) the Ministry of Social Security, National Solidarity and Environment and Sustainable Development will carry out an audit on the hydraulic capacities of rivers and water courses at specific sites with a view to taking remedial measures to ensure optimal water flow.

Madam Speaker: Hon. Adrien Duval!

Mr A. Duval: Madam Speaker, can the hon. Prime Minister ask the Land Drainage Authority and the NDU perhaps to have a look in Grand' Baie, in the City Centre. It is in Constituency No. 6 and it concerns the land Drainage Authority. We are talking about flash floods. As soon as there is rain, the whole City Centre becomes disrupted as there is accumulation of water and today I am unaware of any plans to remedy this.

The Prime Minister: Well, I have a list of projects that have been completed and there are other projects that are ongoing. But, of course, I shall have to look into that particular case with regard to Grand' Baie because I see construction of drains at Racket Road and, at Camp Carol also, in accordance with the information I have. In fact, at Camp Carol, if I can remember, I visited the place where there were problems with regard to flooding and instructions were given for works to be carried out. So, I do not have all the information right now, but, certainly, I shall look into the matter.

Madam Speaker: Hon. Bhagwan!

Mr Bhagwan: Thank you, Madam Speaker. Since the Prime Minister has mentioned the Land Drainage Authority, can we know from him whether this institution, which is a very important tool in terms of the Land Drainage Programme, is fully operational in terms of capacity building and who is heading this Authority?

The Prime Minister: Well, it is a new institution; a new authority which has been set up. I know that we have been recruiting officers, but I do not know if it is fully, I mean, if all the personnel have already been recruited but, obviously, it is doing its work, and we shall give all the support that is possible because, of course, drain is a major issue, certainly with regard to flooding.

Madam Speaker: Last question, hon. Baloomoody!

Mr Baloomoody: Thank you, Madam Speaker. The hon. Prime Minister just mentioned Richelieu. May I know where matter stands with regard to the project of drainage in Richelieu? Because early this year, the PPS of the region had a meeting with the councillors and he said work will start very soon but, up to now, there is no progress.

The Prime Minister: Well, with regard to Richelieu, I see there is ongoing project, extension of drain at La Fourche Lane, Cité Richelieu, for a value of Rs30 m. and in some cases, I see that design is being prepared. So, let us hope that it will be completed.

Madam Speaker: Time is over! Hon. Members, the Table has been advised that PQ B/697, B/710, B/711, B/712 and B/713 have been withdrawn.

(Interruptions)

Silence, please! Silence!

(Interruptions)

Hon. Rutnah, PQ B/723, in regard to creation of post in the Public Sector, will be replied by the hon. Minister of Civil Service and Administrative Reforms. PQ B/730, in regard to fatal road accidents which occurred since 2016 to date, will be replied by the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues. Hon. Rughoobur!

PATIENTS – RENAL FAILURE – OVERSEAS TREATMENT

(No. B/681) Mr S. Rughoobur (Second Member for Grand’Baie & Poudre d’Or) asked the Minister of Health and Quality of Life whether, in regard to patients suffering from renal failure, he will state if any grant scheme is available at the level of his Ministry thereto for the purpose of undergoing treatment overseas and, if not, why not.

Dr. Husnoo: Madam Speaker, I wish to inform the House that renal failure can be either acute or chronic, is a medical condition when the kidneys fail to function properly.

Patients suffering from chronic renal failure at early stage are treated medically. On the other hand, patients with advanced stage of renal failure are treated by Haemodialysis. Both treatments are available at our hospitals.

As at date, there are 1,343 patients who are presently undergoing haemodialysis treatment in the country.

Furthermore, patients with advanced chronic renal failure may have recourse to kidney transplantation provided that they have a compatible kidney donor.

Renal transplantation started in Mauritius in 1992 by foreign medical teams at SSRN Hospital. Moreover, as from 1995, renal transplantations have been performed by two local trained surgeons at SSRN and J. Nehru Hospitals. However, as at March 2017, renal transplantation was not being carried out in our hospitals as both of these transplant surgeons retired from the service. Since then, arrangements were made to have one general surgeon to be trained at the University of Marseilles for renal transplantation in 2015. However, after his training and paying of the bonded sum attached to the training, the latter resigned from the service in 2016.

In October 2017, my Ministry has, therefore, made necessary arrangements with a medical institution in Chennai for patients who have a compatible donor for renal transplantation under the Overseas Treatment Scheme. There is no eligibility criteria attached to the renal transplantation for financial assistance except for a ceiling of Rs500,000 which includes airfare for both donor and patient and the surgery.

In addition, I wish to inform the House that since October 2017, 17 patients have already been referred to India for renal transplantation.

Madam Speaker: Hon. Rughoobur!

Mr Rughoobur: Let me thank the hon. Minister for his reply. In December 2017, in replying to a PQ, the hon. Minister stated, Madam Speaker, that there were two professionals who were to be sent to Marseille for training in this field of renal transplant. May I know what is the status today?

Dr. Husnoo: We contacted Marseille, they were going to overseas for treatment. There was some kind of hitch and that is why they have not been there yet.

Madam Speaker: Hon. Rughoobur!

Mr Rughoobur: Well, with regard to this shortage of resources in our country, may I request the hon. Minister to see to it that once the specialist or whatever surgeon is chosen to go for a training in Marseille or in any other institutions, that we have strict conditions for them to stay in the public sector, because as the hon. Minister rightly mentioned, there was one who came, paid his bond and then left the public sector.

Dr. Husnoo: Actually, that is how it is. He was under a bond, unfortunately, he paid the bond and he resigned. Unfortunately, it is like that.

Mr Rughoobur: I have one more supplementary, Madam Speaker. Since we just voted a Bill and we are thinking of implementing a centre, the hon. Minister mentioned about this collaboration that we have with the Apollo Hospital in Chennai. May I know from the hon. Minister whether there is any collaboration in ensuring that in the advent of the selling of that centre, that there is actually a collaboration for training of locals, this exchange whether there is any possibility of collaboration for training?

Dr. Husnoo: Definitely, after the transplant Bill was passed, we are in contact with overseas institution to train our doctors as well, that is for sure.

Madam Speaker: Hon. Dr. Boolell!

Dr. Boolell: Madam Speaker, thank you very much. Can I ask the hon. Minister why is it that patients, who undergo renal dialysis in private clinics and other institutions, are not dispensed with what we call drugs which boost blood production, erythropoietin like drugs? Why is it that they do not have access to this drug there and then in these private clinics? Why is it that they have to go to the hospitals to have access to these drugs?

Dr. Husnoo: If I understand well, the hon. Member is talking about patients who do their operation in the private sector.

Dr. Boolell: Patients who undergo renal dialysis in clinics or private institutions, they are not being dispensed with what we call the blood boosting drugs.

Dr. Husnoo: As far as our patients who are referred to, because a lot of our patients do their dialysis in hospital, some of the patients in the public sector we send them to the private clinic to do their dialysis. But all of our patients who require EPO, get their EPO.

Dr. Boolell: This is very serious, Madam Speaker. Why is it that there and then they are not being dispensed with the drugs? Why do they have to go to private...

Dr. Husnoo: They are being given...

Dr. Boolell: I have received complaints, unless this information...

(Interruptions)

Madam Speaker: Allow the hon. Minister to reply! It is for the hon. Minister to reply, not for anybody else. Please!

Dr. Husnoo: Actually, they have been provided with erythropoietin, Madam Speaker.

Madam Speaker: Last question, hon. Bhagwan!

Mr Bhagwan: The Minister has informed us about the private clinics. There is a sort of protocol with the Ministry of Health and the private clinics with regard to better service, but many patients have problem when they are referred to a private clinic. Can we know how many private clinics, their services are hired by the Ministry of Health, whether the Ministry is working on a new protocol with the private clinics to ease the patients?

Dr. Husnoo: I think there are about seven or so private clinics that we deal with to send our patients there and naturally, there is a protocol signed between the Government and this clinic.

CARDIAC CENTRES – OPEN HEART SURGERIES

(No. B/682) Mr S. Rughoobur (Second Member for Grand’Baie & Poudre d’Or) asked the Minister of Health and Quality of Life whether, in regard to the Cardiac Centres, he will give an updated list of patients awaiting open heart surgeries thereat.

Dr. Husnoo: Madam Speaker, I wish to inform the House that heart surgeries are carried out at the Trust Fund for Specialised Medical Care at both its centres, that is, at Pamplemousses and Candos.

As at 01 January 2015 to date, the Trust Fund for Specialised Medical Care has carried out 2,441 cases of heart surgery, including 415 cases this year.

I wish to inform the House that as at July 2018, 150 patients are awaiting heart surgery. Due to confidential nature of the information requested, the list of patients awaiting heart surgery cannot be tabled.

Madam Speaker: Hon. Rughoobur!

Mr Rughoobur: Thank you, hon. Minister. Can the hon. Minister confirm the number of foreign specialists that are attached to the Cardiac Centre?

Dr. Husnoo: With regard to foreign specialists, at SSRNH, we have one cardiac surgeon. When we opened Victoria, we had two cardiac surgeons from overseas.

Madam Speaker: Hon. Rughoobur!

Mr Rughoobur: The hon. Minister maybe can enlighten the House - recently, there has been a pool of doctors who have been recruited - whether there is a problem at the level

of local doctors who have been recruited to join and whether there is a shortage in this field. When I see the long list of patients awaiting surgery, does the hon. Minister have a problem with a shortage of local resources?

Dr. Husnoo: As far as cardiologists are concerned, we do not have any problem. We have recruited cardiologists from the local population. But as far as cardiac surgeons are concerned, you will appreciate that this require very long training, very specialised training. I mean, it is not an easy operation as well. My attitude is to try to get the best that we can. Do you know what I mean? That is why I have taken two surgeons from overseas. As I mentioned, we have a waiting list of about 150. But these 150 are for a maximum that can be covered in about two months. I do not think that is long. Having said that, if anybody needs to have an urgent operation, he will be given that urgent operation. So, the waiting list is about two months. I do not think it is that long.

Madam Speaker: Hon. Uteem!

Mr Uteem: Thank you, Madam Speaker. Last year, when we asked a question in this House, we were informed that there was vacancy in the Cardiac Centre for heart specialist, for heart surgeon, and in fact, an extra allowance was being given to the director and the surgeon. So, may I know from the hon. Minister whether this vacancy has now been filled, and whether this extra allowance is still being given to Dr. Guness as Head of the Department?

Dr. Husnoo: The hon. Member is right. There was a shortage of cardiac surgeons last year. He was given an allowance. But as I mentioned just now, at SSRNH, we have only one cardiac surgeon now. We have two cardiac surgeons at Victoria Hospital. You know what I mean. So, he is still doing a lot. I mean he is covering the whole unit. So, that is why he is still getting that allowance.

Madam Speaker: Hon. Rughoobur!

Mr Rughoobur: I have a last question again on this issue of human resources because several Ministers faced the same situation of shortage of human resources in this specific field. Doesn't the hon. Minister feel that it is high time for the Ministry to devise a strategy as to how this problem of shortage in specific field may be probably addressed in the coming years?

Dr. Husnoo: I agree with the hon. Member. We have shortage not just in cardiac surgery, but in different specialities as well. I mean we advertise for scholarships; we give scholarships. A lot of students go for their scholarships, they train and they come back. But the problem is that cardiac surgery is such a specialised field, with long training. That is why you do not get so many people who go for cardiac surgery. It is very long. It is about six years' training apart from basic surgical training.

Madam Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: Thank you, Madam Speaker. Can I refer the hon. Minister to a complaint that I have received from cardiac patients from the region of Port Louis. It is because of the fact that whenever the cardiologist who does angiography and angioplasty at Dr. Jeetoo Hospital is on leave, the whole department is paralysed, and this affects the people of Beau Bassin, Coromandel and Terre Rouge because they have to resort to private clinics to attend to them. Can I ask the hon. Minister whether he can ensure that whenever that person is on leave, there is a competent person who assumes the responsibility and the department is not paralysed?

Dr. Husnoo: Madam Speaker, as far as the cardiologist is concerned to do interventional cardiology - I am not just talking about cardiologist. I am talking about interventional cardiologist - again, you need trained people. I mean, we have some doctors who have come from overseas; they tell us that they can do interventional cardiology. It is a very delicate intervention. What I did - because there were some queries whether they are really trained or not to do this intervention - Madam Speaker, about two or three weeks ago, I got one interventional cardiologist from India to come and assess our doctors who say that they can do this intervention. And out of about four or five, only one was found to be able to do this intervention. You see what I mean. So, do you want me to just open to everybody to do these interventions and have some problems in the future or to have strict criteria? I got them to be assessed not by local, but from overseas doctors, to make sure that we have proper, qualified people who can do the job.

Madam Speaker: Last question, hon. Adrien Duval!

Mr A. Duval: Thank you, Madam Speaker. I personally know of a case of someone from Rodrigues who had to wait for several months, much more than two months, to have his open heart surgery. But, in the meantime, since there is already a waiting list of 150 people,

and only three doctors, if I heard correctly, who can perform these operations, what are the measures that the hon. Minister is taking to ensure that there is the cycle and that we can increase the number of doctors, the training, the specialists?

(Interruptions)

Is the hon. Minister sending anyone overseas for training?

Dr. Husnoo: I have just explained that, Madam Speaker.

Madam Speaker: The hon. Minister just replied! Next question, hon. Rughoobur!

GRAND'BAIE – COMMUNITY HEALTH CENTRE – CONSTRUCTION

(No. B/683) Mr S. Rughoobur (Second Member for Grand' Baie & Poudre d'Or) asked the Minister of Health and Quality of Life whether, in regard to the proposed construction of a new Community Health Centre in Grand'Baie, he will state where matters stand.

Dr. Husnoo: Madam Speaker, I have to inform the House that my Ministry has embarked on a comprehensive infrastructural upgrading of all the existing health facilities with a view to enhancing the service level as well as extending the array of services currently being provided. It goes without saying that the primary health care sector needs to be not only maintained, but also we have to provide the appropriate environment so that we can decongest our hospitals.

To improve the service of the primary health care, in the current Budget, apart from the major hospital projects, 14 of our projects are directly related to the primary sector. Once the new construction starts, the service will be relocated to the nearest facilities.

The new Community Health Centre will be built at the existing site on an extent of 545 m² at Grand'Baie. The new building will be a ground plus two storeys. As at date, following amended drawings received from MPI in February 2018, approval has been conveyed to them to finalise the drawing and the cost estimates.

Funds have already been earmarked in the Budget and the Ministry of Public Infrastructure and Land Transport has been consulted to expedite clearance for the project.

Thereafter, procedures will be followed to call for the tender hopefully by the end of August 2018, and the project is expected to be completed in one year's time.

Madam Speaker: Hon. Rughoobur!

Mr Rughoobur: Madam Speaker, I have got only one supplementary on this. I would like to thank the hon. Minister and the Ministry for the construction of this new Community Centre. In PQ B/298 in April 2017, the then acting Minister of Health and Quality of Life replied that the existing building was found to be in a deteriorated state and had to be pulled down from 2015. I believe it is high time for the Ministry to please look into the security of all those who are going there today, and try to see, in the meantime, until the project starts, if we can find an appropriate location for the patients.

Dr. Husnoo: Yes, Madam Speaker. I will look into it as well.

CWA - AFFERMAGE MANAGEMENT CONTRACT - PROCUREMENT

(No. B/684) 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 proposed Affermage Management Contract, he will, for the benefit of the House, obtain from the Central Water Authority, information as to the proposed –

- (a) terms of reference of the specifications thereof, and
- (b) procurement method to be used for the selection of the contractor.

The Deputy Prime Minister: Madam Speaker, I am uncertain as to the meaning of , I quote –

“terms of reference of the specifications”

But I am assuming that the hon. Member is referring to the duties of the operator under what he has termed the “proposed Affermage Management Contract”. If that is so, I can do no better than to refer to my reply to the Private Notice Question of 23 June 2018 when I stated that the International Finance Corporation, which is acting as the transaction adviser, had submitted a Transaction Structure Report. The report has now been referred to the Ministry of Finance and Economic Development for consideration of its financial implications.

With regard to part (b) of the question, in my reply to the Private Notice Question of 17 April 2018, I already informed the House that the procurement would be through a two-stage competitive bidding to be carried out by the Central Procurement Board.

Madam Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: Thank you, Madam Speaker.

Last week, I was on mission and my question has been trimmed down quite a bit, so that is why the confusion arises. I have not had the time because of time lag to do the checking before the question goes on record. But, anyway, can I ask the hon. Deputy Prime Minister about that Transaction Structuring Report? In the PNQ, the hon. Deputy Prime Minister said it was going to be referred to Cabinet as well. Has it been referred to Cabinet and can a copy of that Transaction Structuring Report be tabled at the National Assembly? Because according to the time lag that he has given, we are only a few months away from the appointment of an Affermage Contractor, which was supposed to be by December 2018. So, I do believe it is timely that we can have a copy of that report.

Madam Speaker: Hon. Osman Mahomed, please be brief in your questions!

The Deputy Prime Minister: Thank you for your supplementary questions. The first question, no it has not been referred to Cabinet yet. The second question, the report is before the Ministry of Finance. The third question, yes, the timeline we are dragging because we want to make sure what is happening. The fourth I have forgotten. There were four questions in one.

(Interruptions)

Whether I have tabled the Transaction Report, I have already replied that I will not be able to do so until we get the green light. I have replied to that about three months ago.

Madam Speaker: Yes, hon. Osman Mahomed!

Mr Osman Mahomed: In his previous PNQs, the Deputy Prime Minister had given a list of issues that the Affermage Management Contractor will be required to look into. I have gone through that list, but nowhere in them have I found that the Affermage Management Contractor will be given key performance indicators to bring down the debt level of the CWA which today stands at Rs3 billion. Can I ask the hon. Deputy Prime Minister, whether

bringing down the debt level to reasonable amount will be part and responsibility of the Affermage Management Contractor?

The Deputy Prime Minister: I am not sure that we can mix these two together, but I would not like to respond off-the-cuff on such an important matter, but I do not think these two are mixed.

Madam Speaker: Yes, hon. Osman Mahomed!

Mr Osman Mahomed: Can I ask the hon. Deputy Prime Minister whether - I think he has been asked that question before - an Affermage Management Contractor, which will cost a lot of money, is the best option as opposed to bringing, because I understand the problem of the CWA is management, it is not strong enough, to get someone perhaps with a lot of experience from overseas, with key performance indicators asking him to do certain things, and if he does not perform according to the KPIs after one year or two years, then we just simply do not renew his contract. Will that not be in the interest of the CWA because it is going to cost less money and also to the country at large?

Madam Speaker: Hon. Osman Mahomed, I have told you several times, just to be brief in your questions, and one by one, please.

The Deputy Prime Minister: Well, it is only one question this time. We have gone down this route well before and for a very long time. Of course, several options are always considered in anything that you do. I have got a list, I have gone down the list of all the attempts made since 1999. We have discussed the matter. We have come up not on frivolous consideration with the Affermage option, which is not an Affermage Management Contract, but never mind the words. The substance of the agreement will be as stated in the World Bank Report, which is before the House.

CWA - AFFERMAGE MANAGEMENT CONTRACT - FEES

(No. B/685) 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 proposed Affermage Management Contract, he will, for the benefit of the House, obtain from the Central Water Authority, information as to –

- (a) the proposed estimated quantum of fees to be payable to the contractor, and

- (b) if an inventory of the assets of the Authority will be undertaken prior to the handing over thereof to the selected contractor.

The Deputy Prime Minister: Madam Speaker, with regard to part (a), as stated in my reply to the previous question and in my replies to the Private Notice Questions of 17 April 2018 and 23 June 2018, the report of the International Finance Corporation, including the proposed financial model is being examined.

The hon. Member may refer to the World Bank report on the water sector reform which I tabled in this House on 17 April 2018. This report contains a number of appendices on indicative financial modeling.

Essentially, the report states that there will first – I am summarising because I don't want to re-read the report – be an operator fee based on the volume water billed and collected which will be multiplied by the "Operator tariff". This tariff will be set as a bid parameter through a competitive process.

Secondly, there will be additional performance based payments *boni/bonus* and penalty/penalties for achieving or not achieving key targets. Performance standards will be defined in the contract.

Then thirdly, there would be a fee paid for supervision of ongoing projects. A fee will also be charged or will need to be considered if billing and collecting groundwater licence charges are to be done by the Operator on behalf of the Water Resources Unit, as well as wastewater charges on behalf of Wastewater Management Authority. This is not a closed list as matters with need, of necessity, to be further considered ahead of the bidding process.

With regard to part (b) of the question, I am informed by the Central Water Authority that since 2008, the Director of Audit drew attention to the absence of an updated inventory of assets of the Central Water Authority. I am informed that in April 2017, the Central Water Authority appointed a consultant, Mega Design Ltd. in association with Atkins PLC of the United Kingdom, to update and re-evaluate its assets, in compliance with the International Financial Reporting Standards and the International Valuation Assets. I am informed by the CWA that it has received the report of the consultant this month and is reviewing it.

I, once again, refer the hon. Member to my replies to the two Private Notice Questions and three Parliamentary Questions on the water sector reform, in which I underlined each time that the assets will remain the property of the Central Water Authority.

Madam Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: Thank you, Madam Speaker. A very simple question this time, Madam Speaker! In concrete terms, I know it has been said in the Budget, that there would not be any water increase tariff at the moment which I am fully happy with, but since we are talking about tariff based on competition, the simple question is...

The Deputy Prime Minister: Based on what?

Mr Osman Mahomed: Competition, it is going to be a competitive process.

The Deputy Prime Minister: Tariff based on competition?

Mr Osman Mahomed: Yes, you just said that there will be a - whatever, you just mentioned about tariff...

Madam Speaker: Ask your question!

Mr Osman Mahomed: Can I ask the hon. Deputy Prime Minister whether at all there will be an increase in tariff when the Affermage Management Contractor arrives, either before or after the signature of the contract?

The Deputy Prime Minister: Oh, I understand what you mean. I did not say the tariff will be on competition, I said there will be – that was in the last question - an operator tariff fee, that is, the tariff which will pay the operator; that is not the tariff which the consumer will pay.

The consumer will pay a tariff which will be fixed as it is fixed now. Then, whatever the tariff be, then there will be a multiplier factor, you will multiply it to know what is the base fee which the operator will receive.

Madam Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: So, the question is: will there be eventually perhaps an increase in the water tariff that you and I, the Mauritian population, the consumers will have to pay?

The Deputy Prime Minister: The question is whether there will eventually be a tariff increase. Well, that is the realm of prediction in the medium term. I do not know, I cannot answer that question. There will probably be, there will probably not be. The question will be

whatever the tariff be, if it is too low, the fee will be higher, if it is too high, the fee will be much lower.

Madam Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: About the audit, the inventory of the CWA assets, I understand the exercise has been completed. This is a very important reference document before the Affermage Management Contractor takes over. Can I ask the hon. Deputy Prime Minister whether he can envisage tabling a copy of that certified report in Parliament?

The Deputy Prime Minister: Well, the assets of the CWA are of public importance. I cannot give an undertaking right now. I have never seen this report. I have not discussed with management or management has not discussed with me, but I do not think there would be any objection to publishing a report on the assets of the CWA. It is in our common interest to know.

Madam Speaker: Hon. Uteem!

Mr Uteem: Thank you, Madam Speaker. The way the hon. Deputy Prime Minister is answering, it is clear that according to him the Government is going ahead with the Affermage Management Contract. So, if this is the case, may I know from the hon. Deputy Prime Minister who will be responsible for determining the water tariff? Will it be the CWA or will it be the contractor under the Affermage Management Contract?

The Deputy Prime Minister: Let me make it clear as a preamble to your preamble. The transaction report is now under consideration for the financial implications. Ultimately, when or if or whenever or wherever there is the Affermage operation, the tariff will still be fixed by the CWA. And this will determine, of course, the Operator Tariff Fee, that is, the fee which will be paid to the operator. It is clear in the World Bank Report, if you would refresh your memory from your last reading, that will become rather clear.

CWA - AFFERMAGE MANAGEMENT CONTRACT – WATER SUPPLY

(No. B/686) 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 proposed Affermage Management Contract, he will, for the benefit of the House, obtain from the Central Water Authority, information as to the responsibility of

the contractor in respect of the quality and standard of water to be supplied to the consumers during –

- (a) normal weather conditions, and
- (b) rainy seasons, respectively.

The Deputy Prime Minister: Madam Speaker, any person who is responsible for the supply of water for human consumption through pipelines, bottles or other containers must comply with the standards set out in the schedule to the Environment Protection (Drinking Water Standards) Regulations 1996.

These regulations are applicable to all suppliers of water throughout the year, irrespective of the weather, except in case of cyclone and natural calamity, unlawful interference by a third party and fortuitous event.

Madam Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: Thank you, Madam Speaker. Insofar as the quality is concerned, some time ago, we had discussed blending of untreated water and surface water from Bagatelle Dam being dispensed to the inhabitants of Rose-Hill by the CWA. Now, can I ask the hon. Deputy Prime Minister in the eventuality that the Affermage Management contractor is partnered with the CWA, which watchdog is going to ensure that such practice does not occur again? Because very serious health hazards could crop up of this situation.

The Deputy Prime Minister: Well, we are going very far away from the question. First of all, I do not agree that there was any serious issue or any issue regarding whatever blending that was done. But that is not the question which is being addressed because I do not have the facts here on this issue now. Whatever contract there is, Affermage or non Affermage, they will have to comply with the regulations. Now, who does it? For the moment there is a laboratory at the CWA which has got one of these ISO numbers, very important for this, and regularly they are also sent to independent laboratories. The last one, to my knowledge, was when tests were made at the CWA laboratory and there is the Ministry of Health which also monitors the quality of water. The last time, it was sent to a laboratory which is independent, it was sent to QuantiLab. All three gave almost the same results, that is, the water quality is safe and is in accordance with the schedule to the regulations.

Madam Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: Let me come to the rainy season, which we are experiencing now, winter rains, whereby it is reported the filters at Mont Blanc, Riviere du Poste, La Marie, Nouvelle France, Union Park, Montrose, to name but a few have gone haywire. Now, can I ask the hon. Deputy Prime Minister, after three and a half years, notwithstanding the fact that money has been made available in plentiful amount from the Build Mauritius Fund, why is this lethargy prevailing? Why is it that the filters have not...

(Interruptions)

Madam Speaker: Hon. Osman Mahomed, can I just interrupt you to tell you that your question is in regard to the proposed Affermage Management Contract. Is that question related to the proposed Affermage Management Contract?

Mr Osman Mahomed: It certainly is. Can I ask the hon. Deputy Prime Minister whether this lethargy is being done purposely to set the scene for the recruitment of an Affermage Management Contractor?

The Deputy Prime Minister: I am not used to flippancy coming from this particular Member. This is a flippant question.

(Interruptions)

Of course, there is absolutely no intention behind any incident of nature which occurs or which is probably ill-managed, but which gives the results which it does. I am not sure that the facts which the hon. Member has referred to are correct. A specific question would enable me to give a specific answer.

Madam Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: In certain countries like Singapore, even in the monsoon season, people are not required to boil water. Is it something that we could eventually expect whenever the Affermage Management Contractor is going to be appointed? That boiling water during rainy season will be a thing of the past.

(Interruptions)

The Deputy Prime Minister: I cannot say.

Madam Speaker: Hon. Adrien Duval!

Mr A. Duval: Madam Speaker, the hon. Deputy Prime Minister, last time in the Committee of Supply, was asked with regard to the exact tests that are carried out for testing the quality of water. He did not reply because he did not have his officers present. I see that they are here today, if he can reply now what are the exact tests that are carried out and whether...

(Interruptions)

Madam Speaker: Hon. Adrien Duval, please relate your question to the main question which is in regard to the proposed Affermage Management Contract. Please!

Mr A. Duval: Yes, Madam Speaker. The question is: what are the tests being carried out now exactly and whether they will still be carried out under the Affermage?

The Deputy Prime Minister: All the tests that are carried out are carried out properly and they will continue to be ...

(Interruptions)

Well, do not interrupt me! I am sorry, do not interrupt me when I am talking!

Madam Speaker: Hon. Adrien Duval!

The Deputy Prime Minister: Whether with regards or with regard, I am telling you the tests will be the same as they are carried out now. If the hon. Member ask me a specific question on what are the tests which are carried out, I will give a specific answer.

CWA - NON-REVENUE WATER

(No. B/687) 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 Non-Revenue Water, he will, for the benefit of the House, obtain from the Central Water Authority, information as to the percentage thereof in each of the years 2014 to 2017, indicating the –

- (a) amount of funds disbursed under the Build Mauritius Fund in each of the said years to find solutions thereto, and
- (b) areas where it is proposed to reduce same from 60% to the proposed 37% within the 15 years of the proposed Affermage Management Contract.

The Deputy Prime Minister: Madam Speaker, in reply to my Parliamentary Question B/149 on 10 April 2018, I had informed the House that at least four studies focusing on the reduction of Non-Revenue Water have been carried out since 1999, but none of them could establish the exact Non-Revenue Water level, due to the lack of baseline data. The different studies have established an approximate range of 50% to 60%.

With regard to part (a), the Build Mauritius Fund was established by way of the Finance and Audit (Build Mauritius Fund) Regulations 2013. The purpose of the Fund was to finance infrastructure projects, including replacement of water pipes and not for research and studies.

However, it was only in 2016 that funds were earmarked in the Fund for the financing of replacement of water pipes projects.

I am informed by the Central Water Authority, that the amount of funds disbursed under the Fund for replacement of water pipes from January 2016 to June 2017 is Rs136 m.

With regard to part (b) of the question, according to the World Bank report, which I tabled in this House on 17 April 2018, the operator will have the responsibility to establish the baseline data and identify the priority pipe replacement projects to reduce the level of Non-Revenue Water.

The Bank has recommended that the reduction of Non-Revenue Water should be a key indicator for remuneration of the operator, with a bonus payment for achieving the targets and penalty for failing to achieve the targets.

Madam Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: I am aware that there are four assessments which have been done, but can I refer the Deputy Prime Minister to the two assessments that were done by the IFC itself. The same IFC that is preparing the Transaction Advisory Report ...

Madam Speaker: Ask your question and do not be lengthy!

Mr Osman Mahomed: In 2004, it was estimated to be 55%. In 2015, IFC estimated it to be 60%, notwithstanding massive investment that have gone into pipe replacement.

Madam Speaker: Ask your question, hon. Osman Mahomed!

Mr Osman Mahomed: Can I ask the hon. Deputy Prime Minister whether he does not find it strange that the figure is very abnormally high?

(Interruptions)

The hon. Minister says that I do not usually ask this type of question. Is the IFC not setting the scene to justify the appointment of an Affermage Management Contractor?

The Deputy Prime Minister: Of course, I have the advantage of having being born before you, but I normally believe and experience has taught me that before making an allegation against any person, especially when we are dealing with an important international institution, we should, at least, have a modicum, a spectrum of facts which would justify that allegation.

To accuse anyone of bad faith in this water sector, I think it is going too far. People may fall into error and I am fully prepared to engage into debate on this. But the hon. Member said that is a bad faith, I would not agree, especially as we are talking of 2005 to 2015. In 10 years, the percentage of non-revenue water loss would have increased by 5%, that is not so extraordinary. I do not think we should engage in that sort of slippery debate.

Mr Osman Mahomed: Can I refer the hon. Deputy Prime Minister with respect to figure that he, himself, has mentioned in Parliament in –

- 2004 - 55%,
- 2006 - 46%,
- 2011, Singapore Cooperation Enterprise 55%, and
- then suddenly, it becomes 60%.

So, this is the fact, hon. Deputy Prime Minister.

Madam Speaker: Ask your question, hon. Osman Mahomed!

Mr Osman Mahomed: Can I ask the hon. Deputy Prime Minister to look into these figures, now that I have mentioned it to him in Parliament?

The Deputy Prime Minister: No, it is not now that the hon. Member shows me these figures. I know these figures. I have said in my original reply, there is a lack of baseline data; without that baseline data, my understanding is that it has been impossible to provide accurate figures.

Madam Speaker: Hon. Jahangeer!

Mr Jahangeer: Thank you, Madam Speaker. The non-revenue water is mainly due to defective pipes. I understand as from the last couple of years, there have been a lot of changes in piping. Now, can the hon. Deputy Prime Minister inform us - in certain regions there have

been several changes of kilometres of main truck pipes - if there is a tangible improvement in water supply, if yes, if this can be quantified? Thank you.

The Deputy Prime Minister: Well, I have just said, the problem with estimating loss of revenue water is lack of baseline data. Until such time as we have the baseline data, we are not able to measure in terms of constituencies or district areas what has been the exact level of gain or loss. That is what happened when the Singapore Corporation Enterprise did work at the cost of Rs1 billion under the previous Government. Up to now, nobody knows and can ever know what has been the improvement, but it seems natural to anyone that if you replace an old pipe by a new pipe, less water will be lost.

Madam Speaker: I will allow you last question on this issue, but please, be brief!

Mr Osman Mahomed: Okay! Bringing down the level to 37% in 15 years - long contract of 15 years - is that not a panacea because given Mauritius wants to become a high income country, smart cities, is that figure not too low of 37%? Can we not be more ambitious if ever we are going ahead with that Affermage Management Contractor?

The Deputy Prime Minister: Well, if we give a lower percentage, the question will be: 'Are not you being unrealistic?' So, I am not a technician in these matters of water. I do not think there are many of this type of person around in Mauritius. This is the percentage which has been indicated to me by experts of the World Bank. I go along.

Madam Speaker: Next question, hon. Jhuboo!

SURINAM MITD TRAINING CENTRE – STUDENTS - ENROLMENT

(No. B/688) Mr E. Jhuboo (Third Member for Savanne & Black River) asked the Minister of Education and Human Resources, Tertiary Education and Scientific Research whether, in regard to the Surinam Mauritius Institute of Training and Development Centre, she will, for the benefit of the House, obtain therefrom, information as to the courses being run thereat, indicating in each case, the number of students enrolled therefor.

Mrs Dookun-Luchoomun: Madam Speaker, I am informed by the MITD that four courses are being run at the Surinam MITD Training Centre in the following fields as from this year –

- Electrical Installation Works at NC3 Level with 24 students;
- Plumbing at NC3 Level with 22 students;
- Garment Making at NC3 Level with 23 students, and

- Agriculture at NC3 Level with 21 students.

It is to be noted that the students for Agriculture course registered themselves at the Surinam MITD Training Centre, but follow their courses both theory and practical at the FAREI, Wooton.

In addition, 12 students had followed the course on Electrical Installation Work on the old scheme at NC4 Level at the Surinam MITD Training Centre from July 27 to July 2018.

Madam Speaker: Yes, hon. Jhuboo!

Mr Jhuboo: Since the hon. Minister mentioned the NC4 course, can we know the reason why the course was cancelled?

Mrs Dookun-Luchoomun: The course was not cancelled, Madam Speaker. There is a new scheme and the course duration has now been extended to two years. For this particular year, we are waiting for the NC3 students to complete their NC3 Level and to go on a two-year NC4 course. So, we are waiting for this batch to move on. It is a question of space and infrastructure available for the course. So, next year most probably when the 24 students, who are in NC3 this year, will go for NC4, they will be given the course.

Madam Speaker: Yes, hon. Jhuboo!

Mr Jhuboo: Thank you, Madam Speaker. My information is that the NC4 will be cancelled and the students will be transferred to Mahebourg in Beau Vallon. So, there has been some representation from parents and students to the effect to maintain the NC4 course in Surinam.

Madam Speaker: That is your question.

Mr Jhuboo: This is my question.

Mrs Dookun-Luchoomun: This is what I am trying to explain, Madam Speaker. We do have a rationalisation programme at the level of MITD. But the very fact that this year there were only four students from the region who opted for NC4, they were provided the opportunity to go for the courses at Mahebourg.

In the years to come, we will be having a brand new, modern centre at Beau Vallon which will be able to cater for a larger number of students, but for the time being, the NC3 level students are being awaited to complete their course and then they will move on to NC4, which will be a course over two years. That is why we have a problem of space. Previously, the NC4 course was of one-year duration, and so we had sufficient space for all the students

together. Now, we have to wait for the cycle to be completed before recruiting students for NC4. It is a two-year course now.

Madam Speaker: Hon. Mrs Perraud!

Mrs Perraud: Can the hon. Minister inform the House whether, for this MITD, new equipment will be bought and the infrastructure will be upgraded, please?

Mrs Dookun-Luchoomun: Madam Speaker, there is a whole programme of renovation going on at the level of the MITD. I cannot specifically say what are the equipment that are going to be bought for that particular centre, but I can assure the House that the whole sector is being rebranded. So, we will be having new equipment in all the centres.

Madam Speaker: Next question, hon. Jhuboo!

CLEAR OCEAN HOTEL AND RESORT LTD – HOTEL CONSTRUCTION

(No. B/689) **Mr E. Jhuboo (Third Member for Savanne & Black River)** asked the Minister of Housing and Lands whether, in regard to the Clear Ocean Hotel and Resorts Ltd., he will state if the request thereof for an extension of the delay to start the construction of a five-star Sheraton Hotel on the land leased thereto on 08 January 2018 instead of 06 November 2017 was granted and, if so, indicate the terms and conditions attached thereto.

Mr Jhugroo: Madam Speaker, Clear Ocean Hotel and Resort Ltd holds a lease over a plot of State land of an extent of 127,980.9 m² for period 03 November 2016 to expire on 02 November 2076 at St Felix for the setting up of a Five Star Sheraton Hotel. The lease agreement was signed on 15 August 2017.

Among the conditions spelt out in the lease agreement, the lessee should start construction within a period of three months as from 07 August 2017, that is, by 06 November 2017, and complete construction works within a period of 36 months as from date of signature of the lease.

With regard to the request for extension till 08 January 2018 instead of 06 November 2017 to start the construction works, same is under consideration. Being given that this issue is under consideration, I cannot disclose any further information.

Madam Speaker: Hon. Jhuboo!

Mr Jhuboo: Madam Speaker, 13.5 *arpents* out of 30 *arpents* leased to Clear Ocean are subject to a judicial review, following a decision to de-proclaim Pomponette Beach and allocate same to Clear Ocean. Now, at this stage, every time there is a protest in the region, it is like a war zone.

Madam Speaker: Ask your question!

Mr Jhuboo: I am almost there, Madam Speaker. We have SSUs, policemen, bouncers, etc. So, can we know from the hon. Minister whether re-proclaiming Pomponette public at this stage is envisaged by this Government, by the Minister?

Mr Jhugroo: Madam Speaker, being given that there is a Court case in the Supreme Court and the matter is *sub judice*, I cannot give more information.

Madam Speaker: Hon. Jhuboo!

Mr Jhuboo: Madam Speaker, as the hon. Minister stated, there is a judicial review. Since the land is in dispute, does the hon. Minister find it normal that the promoter has set up a barricade around the land in dispute?

Mr Jhugroo: Madam Speaker, I mentioned earlier that being given that there is a Court case, I will not give more information.

Madam Speaker: I suspend the sitting for one and a half hours.

At 12.59 p.m., the sitting was suspended.

On resuming at 2.41 p.m. with the Deputy Speaker in the Chair.

The Deputy Speaker: Hon. Jhuboo!

SAVANNE DISTRICT COUNCIL – REFUSE COLLECTORS – PROTECTIVE EQUIPMENT

(No. B/690) Mr E. Jhuboo (Third Member for Savanne & Black River) asked the Vice-Prime Minister, Minister of Local Government and Outer Islands whether, in regard to the refuse collectors of Savanne District, she will, for the benefit of the House, obtain from the Savanne District Council, information as to if they have been provided with protective equipment and, if so, when and, if not, why not.

The Minister of Health and Quality of Life (Dr. A. Husnoo): Mr Deputy Speaker, Sir, with regard to the provision of protective equipment to the refuse collectors of Savanne District Council, I am informed by the District Council of Savanne that all the 98 refuse collectors on the establishment of the Council have, in February and March 2018, been issued with the following items of protective equipment: Four pairs of rubber gauntlets, two pairs of mini boots, one unit of reflective jacket, one unit of drill cap and one unit of raincoat.

However, I am informed that out of the 98 refuse collectors, 30 of them did not accept the mini boots issued to them as they were not of the required size. Since the supplier could not provide the boots of the required size and in view of the urgency of the situation, I am informed that the District Council decided, following a market survey, to have recourse to direct procurement method for the purchase of an additional 104 pairs of mini boots. 60 pairs of the mini boots will be issued to the 30 refuse collectors and the remaining pairs will be kept in the stores as a buffer stock.

I am informed that the mini boots are expected to be delivered within one week.

SUGARCANE CULTIVATION – LAND CONVERSION

(No. B/691) Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien) asked the Minister of Agro-Industry and Food Security whether, in regard to land under sugarcane cultivation, he will, for the benefit of the House, obtain from the Mauritius Cane Industry Authority, since 2015 to date, information as to the extent thereof converted under the Sugar Industry Efficiency Act, indicating the extent thereof that were –

- (a) converted under the Smart Cities Schemes and the Property Development Schemes, respectively, and
- (b) exempted from payment of Land Conversion Tax.

Mr Seeruttun: Mr Deputy Speaker, Sir, I am informed that since 2015 to date, the extent of sugar land converted under the Sugar Industry Efficiency Act stands at around 1428.23 hectares of land.

As regards part (a) of the question, I am informed that 151.15 hectares have been converted under the Smart Cities Scheme.

My Ministry has issued Land Conversion Permits for the conversion of agricultural land of a total extent of 75 hectares, inclusive of IRS, RES and PDS.

The extent converted under PDS stands at 29.11 hectares.

The extent that have been exempted from the payment of Land Conversion Tax is around 1152.42 hectares and this includes exemption in respect of Smart Cities, PDS schemes and individual land owners.

Mr Ramful: We know that in the Budget it has been announced that there will be a Ministerial Committee that will be set up to look at the difficulties that the planters are facing. Now, will the hon. Minister consider extending those exemptions to the small planters, at least, to those who own less than five acres of land?

Mr Seeruttun: Mr Deputy Speaker, Sir, if you go section 29 of the Sugar Industry Efficiency Act, you will see the list of land that could be converted and that are exempted from the Land Conversion Tax. So, for the small growers as well, they are within that category whereby if they do convert the portion of land, they are exempted already under that particular provision of the law.

Mr Ramful: These provisions refer to, for example, the Property Development Scheme that are to do with IRS and RES. But, for residential purposes, would that also apply?

Mr Seeruttun: Again, Mr Deputy Speaker, Sir, it is already in the list. The hon. Member can go through that list. If he wants I can provide him with a copy of that provision.

Mr Ramful: With regard to those Land Conversion Taxes, in terms of revenue, can we have an indication of how much revenue? There was 1,152 acres that have been forgone by Government.

Mr Seeruttun: Well, this will have to be worked out because if the question mentioned about the revenue forgone. I can work it out. There is a long list and a number plots of lands that were converted. They are under different categories and different rates are applied. So, this has to be worked out.

Mr Ramful: Can we have an undertaking from the hon. Minister that he will table the figure?

Mr Seeruttun: I have no issue with that.

The Deputy Speaker: Hon. Osman Mahomed.

Mr Osman Mahomed: In so far as land conversion is concerned for the IRS, VRS, Smart Cities etc. which the hon. Minister has just referred to, is the fertility of the soil, meaning Grade A, Grade B, Grade C taken into consideration when these have been converted and will be converted? Because preserving good quality agricultural land for a small island like Mauritius, you will conquer with me, is an important issue.

Mr Seeruttun: That is why when the rates are applicable for tax, it is based on, I would not say the fertility, but the suitability of the land that are devoted for sugar cane. They are Category I, Category II and so on.

The Deputy Speaker: Hon. Dr. Boolell.

Dr. Boolell: Thank you, Mr Deputy Speaker, Sir. Can I ask the hon. Minister whether it is in order for those to whom Land Conversion Permit has been allocated for specific acreage, to auction those permits?

Mr Seeruttun: Well, can the hon. Member explain what does he mean by auctioning the permits?

Dr. Boolell: Buying the conversion rights. These people are selling these conversion rights. I can give cases to whom the offer has been made.

Mr Seeruttun: Mr Deputy Speaker, Sir, there are cases where within the owners of land in the sugar industry, when they have undertaken the VRS, they had to recoup the cost of the VRS. As you all know, within the group of companies of the sugar industry, we have the growers, the millers and all that. Sometimes, the millers do the blueprint. I mean they close down the factories and they have to recoup the cost of the blueprint, that is, paying for the employees who have gone under the VRS Scheme or the blueprint. To be able to recoup the cost, they have to sell the land, but the land is owned by the growers' company and they have to get the rights. They are not owners of land, but they have the rights to be exempted under the Land Convention Tax under that particular scheme. So, that is why they are allowed to sell their rights so that the cost could be recouped.

The Deputy Speaker: Next question!

Dr. Boolell: Can I ask the hon. Minister to conduct a thorough enquiry because there is a difference between recouping in respect of land earmarked for conversion and auctioning Land Convention Permit? It is a huge scandal.

Mr Seeruttun: Well, I would ask the hon. Member to come up with a substantive question on that issue, then, I will look into it.

The Deputy Speaker: Next question, hon. Ramful!

SUGARCANE PLANTERS – LAND AREA

(No. B/692) **Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien)** asked the Minister of Agro-Industry and Food Security whether, in regard to the sugar cane growers, he will, for the benefit of the House, obtain from the Mauritius Cane Industry Authority, information as to the number thereof who own or occupy –

- (a) less than 5 acres of land;
- (b) between 5 and 30 acres of land;
- (c) between 31 and 60 acres of land, and
- (d) above 60 acres of land, respectively.

Mr Seeruttun: Mr Deputy Speaker, Sir, I am informed by the Sugar Insurance Fund Board that, for Crop Year 2017, the number of sugar cane growers who held an account at the SIFB, own or occupy extent of land of –

	Extent of Land In Acres	Number
part a	less than 5 acres of land	11,907
part b	between 5 and 29 acres of land	1,360
part c	between 30 and 60 acres of land	28
part d	above 60 acres of land	53

It is to be noted that any planter can have only one account in a given factory area.

Mr Ramful: As it can be seen from the figures, Mr Deputy Speaker, Sir, there are about 11,997 who own less than five acres. May I know from the hon. Minister, concretely, what is being suggested by the Government, what is being proposed to help those small planters given that they are facing lots of difficulties?

Mr Seeruttun: Mr Deputy Speaker, Sir, we are all aware that this industry is facing major difficulties given that the price of sugar has gone down considerably for the last few years and that now, we do not have any privileges that we used to have in the past. That is why, if we go back 10 years, we will see that a number of planters have moved out of that

industry. For land that used to be marginal land, people are not willing to keep on growing sugar cane on those lands. But land that are still prime for sugar cane, in fact, since 2015, we are allocating money to do the land preparation for whose land which have been abandoned and also replanting fields that have gone through that six year cycle so that we can improve their production. Just for the year 2017/2018, some Rs135 m. have been provided under that particular scheme to do land preparation and cane replantation, some 554 hectores of land have already been under the process of replantation.

Mr Ramful: I guess that the Ministerial Committee has already been set up. Now, does the hon. Minister undertake to meet the small planters or has he already met them and can he confirm whether they have submitted a paper and what proportions have they put forward?

Mr Seeruttun: Mr Deputy Speaker, Sir, there is an Inter-Ministerial Committee that has been set up, chaired by the hon. Prime Minister himself. We have met already. He has, himself, met the representatives of the different groups of stakeholders, that is, the small planters, the representatives of the employees and also the corporate. They have all submitted their proposals and these are being examined now. We are going to meet shortly to look at all those proposals and then come up with some solutions for that industry in the near future.

SUGAR CROP 2017/2018 – MOLASSES – PURCHASE

(No. B/693) Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien) asked the Minister of Agro-Industry and Food Security whether, in regard to the sugar crop 2017/2018, he will, for the benefit of the House, obtain from the Mauritius Cane Industry Authority, information as to the –

- (a) amount of –
 - (i) molasses purchased, and
 - (ii) ethanol produced for exportation, and
- (b) blended price per ton of molasses to be paid to the planters.

Mr Seeruttun: Mr Deputy Speaker, Sir, as regards part (a) (i) of the question, I am informed that the amount of molasses purchased by the different operators, on a calendar year basis, for 2017 is as follows –

- a. 74,886 tonnes by Omni Cane Distillery,

- b. 25,813 tonnes by Grays Distillery, and
- c. 23,517 tonnes by Médine Distillery.

In addition, 4,399 tonnes of molasses have also been purchased by the Livestock Sector and some 1,029 tonnes of molasses were taken, in kind, by different producers for diverse use.

It is to be noted that the production of molasses for crop year 2017, from canes processed locally, stood at 121,815 tonnes.

In addition, 7,829 tonnes of molasses were produced by refineries using imported sugar.

The total production of molasses, for year 2017, was, therefore, 129,644 tonnes.

In respect to part (a) (ii) of the question, 17,944 million litres of ethanol, for crop 2017, were produced by Omni Cane Distillery for exportation.

With regard to part (b) of the question, I am informed by the MCIA that the estimated blended price of per ton of molasses to be paid to the planters is around Rs3,600 for crop 2017.

Mr Ramful: With regard to the blended price of molasses, can the hon. Minister confirm what is the DIP FOB price that has been taken into consideration in calculating the blended price to be paid to planters?

Mr Seeruttun: The DIP FOB price for the crop 2017 is Rs2,147.18.

Mr Ramful: Now, there has been a technical committee that was set up under the MCIA. Can the hon. Minister confirm that, that technical committee had recommended a price which is about 40% of the LEI, which is around Rs2,400? Is that correct? If that is correct then, why did not the hon. Minister take that recommendation into account?

Mr Seeruttun: Mr Deputy Speaker, Sir, there was a few committees that were set up to look at the price mechanism determining the price for molasses to be paid to the planters. There was one committee, I mean, one consulting firm that was appointed to look into it, they submitted the report and the options that were proposed were turned down. Then, there was another committee that was put in place to look into, again, the price determination and, there again, there was consensus as to the price to be applied. Then, it was decided to apply the LEI reference price. Regarding the LEI reference price, if we go back for the last ten years, the

price that is offered is the price which is being offered on the market after including all the costs, insurance, freight and all that. To come to that FOB price, we need to eliminate those associated costs to bring it on the market, and it was worked out that the costs associated with the selling and distribution represented 35.2% of the costs, and that is what was taken in determining the FOB price.

Mr Ramful: The hon. Minister is not an expert. There was a technical committee composed of experts who have come up with a specific recommendation that the price to be paid should be Rs2,400. Why then the Minister went to Cabinet in April and suggested Rs2,100 for the FOB price? On what did he base himself? Who recommended this? Who took the decision?

Mr Seeruttun: Mr Deputy Speaker, Sir, it was worked out based on taking account of all the costs associated with bringing the product to the market. Again, if we look back at the price that was determined in the past, it was well below 32%. It has gone up now to 35.2%

The Deputy Speaker: Hon. Ms Sewocksingh!

Ms Sewocksingh: In his reply, the hon. Minister mentioned that planters receive Rs3,600 per ton of molasses. Can the hon. Minister state if this price is solely for molasses or does it include the distillers' contribution also?

Mr Seeruttun: Over and above the price for the molasses that is being paid to the planters, we also have a levy on distillers bottle fee which used to be Rs20, now it has been increased to Rs40. When we add up this, we come up to Rs3,600.

MAURITIUS CANE INDUSTRY AUTHORITY – CEO - APPOINTMENT

(No. B/694) Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien) asked the Minister of Agro-Industry and Food Security whether, in regard to the Chief Executive Officer of the Mauritius Cane Industry Authority, he will, for the benefit of the House, obtain from the Authority, information as to the terms and conditions of appointment thereof, indicating –

- (a) the date of termination of the contract of appointment thereof, and
- (b) if the renewal thereof is being envisaged and, if so, indicate the proposed terms and conditions thereof.

Mr Seeruttun: Mr Deputy Speaker, Sir, the Chief Executive Officer of the Mauritius Cane Industry Authority (MCIA) was appointed, on a contract basis, for a period of two years with effect from 01 October 2015, following an open advertisement.

He was drawing a salary of Rs125,000 monthly plus an allowance of Rs40,000, the same remuneration as drawn by the previous Chief Executive.

On 22 December 2016, the Board of the MCIA approved that his salary be increased from Rs125,000 to Rs138,000.

Following a decision of the Board on 28 September 2017, the Chief Executive Officer of the MCIA was appointed on 24 October 2017, on the permanent and pensionable establishment of the Authority, in accordance with Section 11 of the Mauritius Cane Industry Authority Act and with a salary of Rs160,000, together with an allowance of Rs 6,000 (representing two increments for joining MCIA paid to all officers who opted to join the MCIA and chose not to proceed on VRS, as per the MOU).

The other conditions of his employment as regards travelling allowances, entertainment allowance and leave entitlements are in line with those prevailing in the wider civil service in respect of this category of employees.

I understand that the MCIA Board of Directors would retain the services of the present CEO, on a contractual basis for a period of two years, on him reaching the retirement age, given the very difficult circumstances prevailing in the sugar industry, the more so that he has over three decades' experience in the sugar industry.

Mr Deputy Speaker, Sir, the Board of Directors of the MCIA consists of representatives of the sugar industry from both the corporate sector and the small planters.

I assume that in taking the decision they have given due consideration to the support needed by the industry at this particular difficult time.

Mr Ramful: Can the hon. Minister confirm that in December 2016, he purposely brought amendments to the MCIA Act to empower the Board to change the conditions of employment of the CEO so that he may be employed on a permanent basis? Were amendments brought in December 2016?

Mr Seeruttun: Mr Deputy Speaker, Sir, that has nothing to do with what the hon. Member is alleging. I mean, we came up with the Sugar Industry Efficiency (Amendment) Act in 2016, as far as I can recall. What he is alleging is not correct. There have been so

many articles written about this officer because he is related to me. He joined the Mauritius Sugar Authority when it was founded in 1984. He has been in this institution for the past 34 years. When the Executive Director resigned or retired in 2009, he was appointed Officer-in-Charge. Then, the Government led by the Labour Party/PMSD appointed a political nominee to be the Chief Executive Officer of the MCIA without any open advertisement - just like that. I take it that this person did deliver because they themselves afterwards renewed his contract. Ever since 2013, I think, this institution was being led without a full-fledged Chief Executive. When we came, we advertised the post, an open advertisement, and that is where this officer was appointed Chief Executive Officer. I do not see why we are making so much noise because he is related to me. But he has been there well before I was related to him. Every time I hear that this guy is related to me. Okay! I do not deny that, but he has been there before. He has been occupying senior position well before I was in Government. Let me say that my wife also works for that particular institution. Should I ask her to resign?

The Deputy Speaker: Ms Sewocksingh, I give you the floor.

Ms Sewocksingh: Can the hon. Minister state to the House if the procedures for the recruitment of a new permanent Chief Executive Officer has already been launched and if there is a timeframe to fulfil that post? I do not know if he has already replied to this.

Mr Seeruttun: It will be left to the Board to decide, Mr Deputy Speaker, Sir.

The Deputy Speaker: Last question, hon. Ramful!

Mr Ramful: Can the hon. Minister also confirm - we know that the person is related to him as being his brother-in-law - that although that person is now on pre-retirement leave for seven months, he has been allowed to work so that he is earning double his salary, Rs320,000 per month, giving him a jackpot of Rs2,240,000 for the seven months? Is that true?

Mr Seeruttun: Mr Deputy Speaker, Sir, these conditions are laid down in the PRB Report. I would request the hon. Member to go and see what is being provided for in the PRB Report. It is so easy to come up and make such allegations. So cheap!

EID UL ADHA FESTIVAL - CATTLE - PRICE

(No. B/695) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East) asked the Minister of Industry, Commerce and Consumer Protection

whether, in regard to the forthcoming Eid Ul Adha festival, he will state if the Commerce Division of his Ministry is now in presence of information on the detailed costing of cattle to be imported therefor with a view to determining the price thereof per kilogramme.

The Minister of Business, Enterprise and Cooperatives (Mr Bholah): Mr Deputy Speaker, Sir, with your permission, I will reply to this question. I am informed by the Ministry of Agro-Industry and Food Security that import permits for live cattle meant for Eid Ul Adha 2018 were issued on 23 May 2018 to Socovia Co. Ltd for 3,010 heads, on 26 June 2018 to Belagro Co. Ltd for 400 heads, on 05 July 2018 to Agro-Boss Co. Ltd for 240 heads, and on 09 July 2018 to Agro-Boss Co. Ltd, again for 300 heads.

As at today, only Socovia Co. Ltd has imported its 3,010 cattle. On 23 July, Agro-Boss Co. Ltd has informed that two consignments totalling 240 cattle will arrive in Mauritius on 29 July. Belagro Co. Ltd has not yet confirmed the date of arrival of its consignment. The Mauritius Meat Authority will import 100 cattle from Rodrigues.

Thus, when the Ministerial Committee, set up to fix the price of imported live cattle for Eid Ul Adha 2018, met on Monday 23 July, that is, yesterday, it could not be provided with all information on the detailed costings from all the importers. The Ministerial Committee has requested for further information pertaining to the costings and will meet again on Thursday 26 July, following which it will submit its recommendations to Cabinet for a decision on Friday 27 July. Thereafter, a communiqué will be issued in the media to inform the public accordingly.

Mr Abbas Mamode: Is it normal that *les gens sont en train de réserver, même avec la* Mauritius Meat Authority (MMA), without even knowing the price that will be charged afterwards? So, we are a bit late in fixing the price. Year after year, we hear the same, that is, we could not fix the price. Can the hon. Minister assure the House when will it be possible to have a fixed price concerning Eid Ul Adha?

Mr Bholah: Well, as I have said in my answer, we are still expecting the consignment. Whenever the consignment will reach here, the Committee will verify the consignment with the invoices, the landed cost, etc. With confirmed information, a decision will be taken. But, anyway, as I said in my main answer, a decision will be taken by Friday.

The Deputy Speaker: Hon. Uteem!

Mr Uteem: Thank you, Mr Deputy Speaker, Sir. Can I know from the hon. Minister what exact information is missing for the Ministerial Committee to be able to fix the price and why is it that the Minister thinks that this missing information would be available by Thursday? Because he has undertaken that on Thursday, they will fix the price.

Mr Bholah: We have been provided with some figures for consignments that have already reached Mauritius. We want to ascertain these figures with previous consignments to compare and to ascertain that the figures are real, are correct, so that we can arrive at a correct pricing.

The Deputy Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: Thank you, Mr Deputy Speaker, Sir. Given that the costing is being worked out, can I ask the hon. Minister to ensure that he conveys to the substantive Minister the following message and questions? For 11 months and 27 days in this country, beef is being sold at Rs127.50, including *frais d'abattage* of Rs10.80, which makes it a net price of Rs116.70. Last year, for three days during Eid Ul Adha, that same figure was Rs139.50. So, can I ask the hon. Minister whether, in the detailed costing that he is going to undertake, it is ensured that we pay at least Rs116.70 or below because the beef is supplied live without *frais d'abattage*, without any other ancillary cost, and it makes absolute sense that it should be below this price of Rs116.70? Can I ask the hon. Minister to give us the assurance that this will be case this year, in all fairness?

Mr Bholah: Well, whatever the hon. Member has said in his question has been discussed thoroughly yesterday, but at this moment, without the meeting of the Ministerial Committee, I cannot give any assurance to that effect. Let the Committee with officers and all the available information be considered, and then we will come up with an official figure.

The Deputy Speaker: Hon. Ameer Meea!

Mr Ameer Meea: Mr Deputy Speaker, Sir, this situation is unprecedented because less than a month to the festival, the price has not yet been fixed. I will come back to the PQ raised in the House three weeks back and answered by hon. Minister Seeruttun, and I quote from Hansard -

“I am further informed that Socovia has a stock of 2,700 cattle and so on (...)”

So, my question to the hon. Minister is that there is already a stock of cattle which has reached the country, with all the documents available. I do not know what he is waiting for in two days to get more documents to fix the price. Will the hon. Minister agree with me - according to my information - that there is enormous pressure from the part of the importers to raise the price by Rs5 like they have been doing since 2015? In 2015, it was Rs125; in 2016, Rs130; in 2017, Rs125, and this year again, without no reason, the price is being asked to be increased. Is the hon. Minister aware of this information?

Mr Bholah: Let me reassure the hon. Member that this information - although I was present at that meeting - is not correct, and nobody, at any time, put any pressure. The

meeting was co-chaired by the Minister Agro-Industry and myself and, at no time, anybody put in pressure. We have requested for more information. In fact, we have requested for invoices for previous consignments, which are not meant for Eid Ul Adha, in order to give the population who are connected with Eid Ul Adha, obviously, a good price.

The Deputy Speaker: Last question hon. Jahangeer!

Mr Jahangeer: Thank you, Mr Deputy Speaker, Sir. Is the hon. Minister aware actually that the price per kilo from Rodrigues is cheaper than from Africa, therefore consideration should be given for Eid Ul Adha to import cattle from Rodrigues?

Mr Bholah: Well, there was a ban regarding the import from Rodrigues which has now been waived and importers are being encouraged to import from Rodrigues, but the condition is that for Eid Ul Adha the cattle should be at least two years - 24 - and verification will be done by the technicians of the Ministry of Agro-Industry.

METRO EXPRESS PROJECT– AAPRAVASI GHAT – BUFFER ZONE

(No. B/696) Mr S. Baboo (Second Member for Vacoas & Floreal) asked the Minister of Public Infrastructure and Land Transport whether, in regard to the Aapravasi Ghat, he will state if the authorisation of UNESCO was sought and obtained prior to the implementation of the Metro Express Project inasmuch as same is close to the buffer zones thereof, and, if so, when.

Mr Bodha: Mr Deputy Speaker, Sir, I am informed that the alignment of the Metro Express Project will go along the buffer zone of the Aapravasi Ghat leading to the Immigration Square Metro Station.

In this context, at the request of the Metro Express Limited (MEL), the Ministry of Arts and Culture has solicited the advice of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) as regards measures to be adopted in relation to construction/development to take place in the buffer zone of the World Heritage Site. I wish to inform the House that compliance with the Planning Policy Guideline was ensured by the Singapore Cooperation Enterprise during the preparation of the reference design of the Mauritius Light Rapid Transport System during the years 2012 and 2013.

Mr Deputy Speaker, Sir, I am also informed that Mr John Nicholos Clarke, an expert from the International Council of Monuments and Sites (ICOMOS) and Dr. Georges Okelo

Abungu, from the UNESCO, were in Mauritius from 12 to 18 May 2018 following the invitation from the Ministry of Arts and Culture.

Mr John Nicholos Clarke had working sessions with the Metro Express Ltd on 14 May, whereby the reference design of the details of the Metro Express Project along the buffer zone of Aapravasi Ghat was presented. The expert provided some suggestions on the development of the Metro Express Project along the buffer zone of the Aapravasi Ghat.

Mr John Nicholos Clarke also had a meeting at the Ministry of Public Infrastructure and Land Transport, whereby the Request for Proposal for the Immigration Square Bus Terminal was presented and suggestions as regards the alignment and location of the Metro station were made. Same were also incorporated in the Request for Proposal to promoters.

Mr Deputy Speaker, Sir, I am further informed that, on 15 May, Mr John Nicholos Clarke and Dr. Abungu had a meeting with Landscape Ltd regarding development projects within the buffer zone of the Aapravasi Ghat. They also met with ten potential interested applicants in Réduit for the setting up of the Immigration Square Bus Terminal. They provided clarifications on guidelines to be followed for construction within the buffer zone so as to ensure both that development and conservation go hand in hand. Emphasis was laid on the importance of maintaining the visual impact assessment to preserve the integrity and the cultural value of Aapravasi Ghat.

The experts will submit a report on 27 July 2018 to the UNESCO for validation, thereafter the final report will be transmitted to the Government of Mauritius through my colleague, the Minister of Arts and Culture.

Furthermore, in the Request for Proposal, mention was made that the successful applicant shall apply and obtain all applicable and prescribed licences, permits and clearances from the relevant authorities, including the National Heritage Fund and the planning policy guideline for the buffer zone of the Aapravasi Ghat and comply with all the local laws and regulations and guidelines in force in Mauritius. The Evaluation Team for the Immigration Square Urban Terminal comprises an expert who is well versed in the World Heritage Sites and Planning Policy Guidelines.

Mr Baboo: Does the hon. Minister find it normal when the project has already started that now we are having the visits of experts to give their views and approval?

Mr Bodha: The project has not started yet. The extension of the Metro from Victoria Square to Immigration Square is going to be in the second stage. That is the first thing.

As regards to the Urban Terminal, the project has not started yet and the promoters have been able to have working sessions with the experts of the UNESCO so that they know exactly what can be done and what cannot be done. As soon as the evaluation is done and the promoter is chosen and the contract is awarded, he will have to, again, in the light of the report of the two experts from UNESCO, he will have to apply for all the clearances, and I would like to reassure the hon. Member that we know that it is a World Heritage Site and we should do everything, I think there are two words which are very interesting here, is as regards to the integrity and the historical value of the site which we have to conserve.

Now, there is something else also. The experts even told us that today the site is cut by a motorway and asked us whether in the project of the Urban Terminal, we could not have part of the Aapravasi Ghat in the Urban Terminal, that is, for example, a museum, a certain number of issues, elements which will see to it that the Aapravasi Ghat is not only on this side of the buffer zone but at the Immigration Square.

Mr Baboo: The hon. Minister, in his intervention on the Budget, informed the House that there was a visit of the two experts and now he just said that the report will be submitted. So, once the report is submitted, is it possible for the Minister to table a copy to the House?

Mr Bodha: Yes, I think that the Aapravasi Ghat is a National World Heritage Site belonging to the nation. I do not see any issue about tabling the copy of the report.

The Deputy Speaker: Last question, hon. Baboo!

Mr Baboo: Thank you. It is more than the buffer zone, it is the core zone. So, can the hon. Minister confirm to the House that Larsen and Toubro will not bring extra cost in case of any changes or recommendations made by UNESCO?

Mr Bodha: Yes, but I would like to make it very clear to my hon. colleague that Larsen and Toubro is concerned with the rail project, the Urban Terminal is a private investment, but we will see to it that, in fact, the private investment, in its design, should take care of all that has to be preserved. As regards to Larsen and Toubro, for the metro-line, the budget is within this Rs18.8 billion and there will be no extra cost.

**MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND
INTERNATIONAL TRADE – AUSTRALIAN NATIONALITY CONSULTANT –
APPOINTMENT**

(No. B/697) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière) asked the Minister of Foreign Affairs, Regional Integration and International Trade whether, in regard to the consultant of Australian nationality attached to his Ministry, he will state the name thereof, indicating the –

- (a) date of appointment;
- (b) procedure followed for the appointment, and
- (c) terms and conditions of appointment thereof, including the salary and fringe benefits drawn.

(Withdrawn)

**MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND
INTERNATIONAL TRADE – COUNSELLORS - APPOINTMENT**

(No. B/698) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière) asked the Minister of Foreign Affairs, Regional Integration and International Trade whether, in regard to the Counsellors on economic matters recruited by his Ministry since 2015 to date, he will state the names and terms and conditions of appointment thereof, including the salaries and allowances drawn, indicating –

- (a) the respective –
 - (i) posting thereof;
 - (ii) duties assigned thereto, and
 - (iii) academic and professional qualifications and experience held,
and
- (b) if they draw a housing allowance in the country in which they are posted in addition to the foreign service allowance.

Mr Lutchmeenaraidoo: Mr Deputy Speaker, Sir, I am tabling the information relating to the first part of the question.

As regards part (b) of the question, I am informed that the correct appellation of the allowance drawn by the Counsellors is “Rent and Utilities allowance”, and is in line with the recommendation of the PRB Report 2016.

Mr Bhagwan: Thank you, Mr Deputy Speaker, Sir. Can we know from the hon. Minister what is the place for Counsellors in the hierarchy of the diplomatic missions?

Mr Lutchmeenaraidoo: Can the hon. Member repeat the question, please?

Mr Bhagwan: Can we know from the hon. Minister what is the hierarchy of these Counsellors in the diplomatic missions?

Mr Lutchmeenaraidoo: The Counsellors are, in fact, working on contract and they do not form part of the hierarchy of the Ministry of Foreign Affairs, but with the new structure which is being developed by the Australians, we are going to have then integrated within the structure the Counsellors also. Therefore, they will be within the Ministry a department for economic Counsellors like we have one for Diplomats.

Mr Bhagwan: Can we know from the hon. Minister whether there is a follow-up in terms of the performance at work, especially in terms of investment which we are supposed to bring to the country?

Mr Lutchmeenaraidoo: I must say that they are still in the phase of *rodage* integrating in the various Embassies and getting used to their work. They are, in fact, accountable to the High Commissioner, High Ambassador – number one; number two, they are accountable to the EDB also to know what is the work that they will have to do and they also have to report to the Ministry on the basis of a monthly report. So, this is where we are; they will improve naturally the more they get involved in the job itself.

The Deputy Speaker: Hon. Uteem!

Mr Uteem: Thank you, Mr Deputy Speaker, Sir. May I know from the hon. Minister if he is satisfied that there is only one designated person for the whole of Africa? He is based in South Africa. We are trying to launch Mauritius as the gateway to Africa and there is only one person as our representative. Is the hon. Minister satisfied with this state of affairs that there is only one representative for the whole of Africa?

Mr Lutchmeenaraidoo: The question, I think, is the right one. We are dealing with 54 African countries. The one we have, representing us, is a powerful guy, Prega Ramsamy, a former Executive Secretary of SADC. But it is sure that by himself he cannot cover the whole region. Therefore, we have had a first batch of recruitment of 8 counsellors. We will

have new batches of recruitment and then we will have to be more present in Ghana, Kenya and other countries.

**MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND
INTERNATIONAL TRADE – DIPLOMATIC STAFF - CROSS-POSTING**

(No. B/699) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière) asked the Minister of Foreign Affairs, Regional Integration and International Trade whether, in regard to the diplomats in service, he will state the conditions and criteria for the cross-posting thereof, indicating if copy of the guidelines regarding diplomatic posting will be tabled, indicating-

- (a) the reasons why the criteria for cross-posting are not mentioned therein, and
- (b) if these guidelines are being strictly applied and adhered to.

Mr Lutchmeenaraidoo: Mr Deputy Speaker, Sir, cross posting refers to a situation where officers are posted from one mission to another without returning to headquarters or when officers do not complete their tour of service in one mission but are posted to a different mission.

Such practice is resorted to only in unforeseen and exceptional circumstances. As such, there are no conditions or set criteria for cross posting which did not warrant inclusion of same in the guidelines.

Mr Deputy Speaker, Sir, from January 2018 to date, we have had four cases of cross-posting, out of which two are the direct result of poor working relationship between the Ambassador and the diplomatic officer, namely in Berlin and Paris.

As regards part (b) of the question, I requested the Ministry to work out a “General Guidelines for the Posting of Diplomatic Staff” to ensure more transparency and equity in the management of human resources and posting of staff overseas.

A committee has been set up under the chairmanship of the Secretary for Foreign Affairs, comprising the Permanent Secretary, the HR staff and other members of the diplomatic staff. The “General Guidelines” is an internal administrative instrument and cannot be tabled.

Mr Bhagwan: Can the hon. Minister inform the House whether his attention has been drawn recently to the situation where career diplomats are very discouraged with regard to wrongful practices and the discriminatory way cross-posting or even posting are being done at the Ministry, whether he has discussed it with his Senior Officers and whether he is taking action to that effect for the country not to lose career diplomats?

Mr Lutchmeenaraidoo: This is a long practice. In fact, the former Government had eight diplomats practicing this cross-posting. Now, the issue is whether there is frustration. Not really, because there are four cases only. In two cases, there has been direct conflict between the Ambassador and the officer, and we had no other choice than to get them transferred; one from UK and one from Berlin. The two others are linked to professional transfer. In fact, Brussels needed someone very knowledgeable to prepare for the negotiation of post Cotonou. So, he was transferred from Addis Ababa to Brussels. So, we avoid it. This is why I also took the decision of having clear guidelines established now. This has been done and I am sure that we are moving more and more towards more transparency when it comes to nomination, and also to posting.

Mr Bhagwan: Pending the implementation of these guidelines, can the hon. Minister, at least, give the assurance to the House and even to those officers at the Ministry that there won't be any element of unfairness in the way it has been conducted so far? As the hon. Minister has just stated, there is need for transparency and not only a few privileged staff are being given this cross-posting.

Mr Lutchmeenaraidoo: I need to say that the concept of unfairness is very personal also. In fact, at the beginning of the year there were nominations of Counsellors done by the PSC. And at the end of the day, there was one person who was nominated by the PSC, but whose nomination was challenged and this created huge frustration. But those are levels where we cannot intervene. PSC has taken their decision in their own wisdom. So, when we speak of frustration, at times there are situations when people think that they deserve something, but they don't get it. But it can also be very individual and personal. The hon. Member's point is good. I think as far as possible the guidelines I have asked for have been established to ensure more transparency, more fairness and more equity in the system. It will take some time, but we are, I think, on the right path.

MISSIONS OVERSEAS – NATIONAL DAY CELEBRATIONS - EXPENDITURE

(No. B/700) **Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière)** asked the Minister of Foreign Affairs, Regional Integration and International Trade whether, in regard to the 50th Independence Anniversary and the National Day celebrations in each of our diplomatic missions abroad, he will state the –

- (a) number of guests invited
- (b) expenditure incurred in terms of
 - (i) venue;
 - (ii) food and beverages, and
 - (iii) entertainment
- (c) estimated budget, actual expenditure incurred and actual sum disbursed by his Ministry to the diplomatic missions abroad, and
- (d) if the required procedures were followed for the allocation of contracts.

Mr Lutchmeenaraidoo: Mr Deputy Speaker, Sir, with regard to part (a) and (b) of the question, I am tabling the required information.

Regarding part (c) of the question, I am informed that all procedures have been followed for the allocation of contracts.

Mr Bhagwan: With regard to the same item, can the hon. Minister inform us whether he has been made aware that Air Mauritius had generously offered to sponsor air tickets to the lucky winners participating in the National Day celebrations organised by our Embassies abroad? Can we know whether staff of our Embassies and their relatives are allowed to participate in the drawing of lots and whether very close relatives of one high-ranking diplomat in Geneva miraculously won the air tickets available for the draw there? Is this not a case where we should need to have an inquiry and I will give information to the House and the country?

Mr Lutchmeenaraidoo: Well, I am not aware of this miraculous selection. I would ask the hon. Member to come with a substantive question and I will look into it.

POWDER MILLS ROAD B18 – STREET LIGHTING

(No. B/701) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East) asked the Minister of Public Infrastructure and Land Transport whether, in regard to the road leading from Rivière Citron to the Sir Seewoosagur Ramgoolam National Hospital, he will state if consideration will be given for the provision of street lighting thereat and, if so, when and, if not, why not.

Mr Bodha: Mr Deputy Speaker, Sir, I would like to refer the hon. Member to the reply I made to Parliamentary Question No. B/593 on 24 October 2017 where I informed the House that the Street Lighting System concerns several bodies, namely the Road Development Authority, the Local Authorities and the Central Electricity Board.

Local Authorities are responsible for the provision and maintenance of the street lighting for all roads around the island. The CEB has been given the responsibility for the maintenance of the street lighting system on motorways along M1, M2 and M3 for this financial year. The RDA for its part caters for the street lighting only for new projects.

Mr Deputy Speaker, Sir, I am informed by the RDA that the road leading from Rivière Citron to Sir Seewoosagur Ramgoolam National Hospital is classified as Powder Mills Road B18 and is of a length of 1.4 km.

I am informed by the District Council of Pamplemousses that the Council has already embarked on a project for the provision of lighting thereat. In fact, the Council has already placed lanterns on alternate poles from Sir Seewoosagur Ramgoolam National Hospital to the junction of roads leading to Morcellement St André. As regards the junction from Morcellement St André to the mosque of Rivière Citron, no lighting has been installed at present, though there are some lanterns in the vicinity of the mosque.

I am further informed by the Council that it intends to extend the service along the junction Morcellement St André to Rivière Citron by adding more poles and its network. A quotation is being processed presently by the Council in this respect.

Mr Abbas Mamode: Can the hon. Minister, please, see with the District Council of Pamplemousses because the road leading to the hospital is a complete dark spot and at night it is a very dangerous curve? So, will the hon. Minister consider talking to the Pamplemousses District Council to have a quick solution?

Mr Bodha: I think, Mr Deputy Speaker, Sir, we can have a survey of the whole area and then we will certainly have to discuss the matter with the Chairperson and the Chief Executive of the District Council and wherever on a classified road, if the RDA could do some improvement, we will certainly do that.

MAURITIUS RESEARCH COUNCIL – RESTRUCTURATION

(No. B/702) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East) asked the Minister of Technology, Communication and Innovation whether, in regard to the Mauritius Research Council, he will state where matters stand as to the proposed fundamental reviewing and restructuring thereof.

Mr Sawmynaden: Mr Deputy Speaker, Sir, Government has at paragraph 34 of the Budget Speech 2017/2018 announced its intention to fundamentally reviewing and restructuring the Mauritius Research Council to transform it into the Mauritius Research and Innovation Council. A draft Mauritius Research and Innovation Council Bill has subsequently been prepared after consultation with relevant stakeholders. The proposed legislation intends to achieve the following –

- (i) reinforce the position of the MRIC as the apex body advising Government on all matters concerning applied research and innovation issues;
- (ii) emphasise the link between research, innovation and intellectual property and entrepreneurship,
- (iii) enhance private sector involvement in research and innovation, and
- (iv) promote networking for innovation at international level.

The enactment of the Bill will empower the Council in the promotion of high quality research and to foster innovation, principally in the private sector, encompassing small and large organisation.

The new MRIC will also be focusing on social and inclusive innovation. The Bill is now being treated at the level of Attorney-General's Office and once finalised, it will be brought to this House.

Mr Abbas Mamode: Can the hon. Minister inform the House about the time frame? Because it is a very important piece of legislation concerning research. Can we have a time frame?

Mr Sawmynaden: Actually, the Bill is practically finalised. Once the Attorney-General's Office gives the green light, it would be brought to Parliament. Actually, it is a question of a few weeks.

**NATIONAL HANDBALL FEDERATION – INTERNATIONAL HANDBALL
FEDERATION – OUTSTANDING DEBT**

(No. B/703) 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.

Mr Toussaint: Mr Deputy Speaker, I am informed by the National Handball Association that it has not been suspended by the International Handball Federation. However, the Association is debarred from taking part in any competition until it clears its outstanding debt with the International Handball Federation.

Mr Quirin: M. le président, l'honorable ministre peut-il nous dire s'il y a eu un plan qui a été mis en place afin de pouvoir rembourser les R 6 millions que la fédération locale doit à la fédération internationale?

Mr Toussaint: Jusqu'à présent, M. le président, la fédération mauricienne de handball n'a pas encore soumis ce plan. De mémoire, je sais qu'ils étaient en contact avec la fédération internationale à travers des courriels. Donc, je vais m'enquérir s'ils vont soumettre éventuellement un plan de remboursement.

Mr Quirin: M. le président, l'honorable ministre est-il au courant que la fédération doit aussi de fortes sommes d'argent à des prestataires, dont les services avaient été retenus lors des championnats du monde du Beach Handball qui avait eu lieu, ici, à Maurice, l'année dernière. D'ailleurs, il y en a un qui avait même menacé de se suicider si la fédération de handball ne lui rembourse pas les sommes dues. Peut-on savoir si le ministre a eu l'occasion de discuter tout cela avec les responsables de la fédération?

Mr Toussaint: Oui, M. le président. Donc, la fédération a mis le ministère au courant de cet état de lieux. Donc, c'est la fédération qui est en train de voir comment régler un peu leurs dettes avec les prestataires locaux.

The Deputy Speaker: Hon. Lepoigneur!

Mr Lepoigneur: Thank you, Mr Deputy Speaker, Sir. Est-ce que le ministre est au courant que la fédération de handball a eu un délai jusqu'au fin septembre pour venir combler ses dettes et valeur actuelle, ils n'ont rien trouvé? Est-ce que le ministre pense que ce serait possible qu'ils vont pourvoir payer ces dettes ?

Mr Toussaint: M. le président, la fédération nationale de handball a besoin de soumettre un plan d'ici septembre. Comme je l'ai dit, ils sont en train de travailler dessous. Bien sûr, on espère de tout cœur qu'ils arrivent à élaborer un plan pour éventuellement rembourser les dettes au niveau de la fédération internationale.

The Deputy Speaker: Last question, hon. Lepoigneur!

Mr Lepoigneur: Est-ce qu'il y a eu une autorisation sur l'organisation sachant que c'était un budget qui dépasse les R 20 millions? Est-ce qu'ils ont eu l'autorisation de la *Beach Authority* et l'autorisation du ministère par rapport à cela, même s'il n'y pas la possibilité du budget?

Mr Toussaint: M. le président, par rapport au *Beach Authority*, je n'ai pas ce renseignement disponible en ma possession. Par rapport au ministère, de mémoire, je sais les anciens membres de la fédération qui ont organisé ce tournoi l'année dernière, ils n'avaient pas demandé de budget au niveau du ministère pour l'organisation de ce tournoi. Ils avaient monté un plan de *sponsorship*. Donc, ils n'ont pas demandé de l'aide au niveau du ministère.

NATIONAL ANTI-DOPING AGENCY - OPERATIONAL

(No. B/704) 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.

Mr Toussaint: Mr Deputy Speaker, Sir, the World Anti-Doping Agency (WADA) has informed my Ministry in November 2017, that certain provisions of the Sports Act 2016 conflict with the WADA Code, particularly the composition of the National Anti-Doping Agency (NADO) and the definition of an athlete. As a consequence, the functions of NADO have been suspended. Alternative arrangements have been made through an agreement with the Regional Anti-Doping Organisation (RADO) which is based in Seychelles for the latter to take over the anti-doping function of the NADO.

Mr Quirin: M. le président, est-ce que cela veut dire que le NADO ne fonctionne plus et qu'il n'y a plus aucun test d'anti-dopage lors des compétitions nationales, ici, à Maurice ?

Mr Toussaint: M. le président, comme je l'ai dit dans ma réponse initiale, les tests anti-dopage se font avec la collaboration du *Regional Anti-Doping Organisation (RADO) which is based in Seychelles*.

Mr Quirin: M. le président, vu que c'est la section 21 du *Sports Act* qui pose problème, comme l'a souligné l'honorable ministre, lui-même, et qui est bien sûr à l'origine de la suspension de Maurice par le *Regional Anti-Doping Organisation*, peut-on savoir si l'honorable ministre compte revoir cette clause, cette section du *Sports Act* et apporter les amendements nécessaires?

Mr Toussaint: M. le président, les officiers de mon ministère sont en étroite collaboration, sont en contact avec WADA et notamment, plus particulièrement, M. Rodney Swigelaar, par rapport à les changements à apporter. Il y a eu plusieurs échanges de mails, de correspondances et nous attendons incessamment la visite de M. Rodney Swigelaar, éventuellement avec qui on va travailler, on va faire un *workshop* pour apporter les changements nécessaires.

The Deputy Speaker: Hon. Lepoigneur!

Mr Lepoigneur: Par rapport à la suspension de NADO concernant le WADA, est-ce que le ministre va faire un amendement sur le *Sports Act* avant les Jeux des îles pour que tout soit en règle pour les Jeux des îles ?

Mr Toussaint: M. le président, je viens de donner cette réponse précédemment. Avant d'aller l'avant avec n'importe quel changement, je le redis, nous faisons un travail directement lié avec le responsable de *WADA Africa*, qui est M. Rodney Swigelaar, où il y a eu plusieurs échanges de correspondances. On attend sa visite incessamment, et à partir de ses recommandations, nous allons faire les changements nécessaires.

MAURITIUS SOCIETY OF AUTHORS - GRANT

(No. B/705) **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.

Mr Roopun: Mr Deputy Speaker, Sir, the Mauritius Society of Authors is a body corporate established under the Copyright Act. The Society is empowered, amongst others, to

—

- (a) collect copyright fees and charges from the users of a work on behalf of its members and could distribute those fees among the Members, and
- (b) administer within Mauritius such economic rights on its Members as it may determine.

Moreover, Government allocates an annual grant to the MASA through the Budget exercise for the discharge of its functions. I am, Mr Deputy Speaker, Sir, with your permission, tabling the information requested for as provided for by MASA.

Mr Quirin: M. le président, en attendant d'avoir une copie de ce document, je voudrais que l'honorable ministre nous dise, à titre comparatif, le nombre d'actions légales intentées contre les mauvais payeurs des droits d'auteur, contre les artistes eux-mêmes sociétaires de la MASA, ainsi que les cas liés aux ressources humaines.

Mr Roopun: Mr Deputy Speaker, Sir, all the information has been provided for within the document I have just submitted. I have just got a list of cases, but I cannot say what is the nature of each and every action which has been entered by the MASA.

Mr Quirin: M. le président, l'honorable ministre peut-il confirmer que les paiements des frais administratifs et légaux ont été approuvés par les divers représentants du gouvernement sur le *Board*, et cela, en l'absence des artistes qui y siègent aussi ?

Mr Roopun: Mr Deputy Speaker, Sir, whatever is done is done within the parameters of the law and by the Board. Once the quorum is reached, decisions are taken whenever they are to be taken.

Mr Quirin: M. le président, l'honorable ministre peut-il nous dire s'il y a des mesures qui ont été prises par son ministère afin de réduire les frais administratifs tout en

envisageant d'augmenter le *grant* annuel à la MASA, qui ne dépasse pas, il faut bien le préciser, les R 2 millions annuellement, alors que les frais administratifs étaient de R 21 millions et R 11 millions en 2016-2017 et 2017-2018 respectivement ?

Mr Roopun: Mr Deputy Speaker, Sir, the grant has been increased quite substantially during the last years. It was around Rs1 m, I believe in 2015, and it has now reached about Rs2 m. But, there is, of course, a question of trying to see how we can either review the cost of the administrative cost and at the same time determine measures to increase the revenue. There is now a new Board which has been established with various artists, and we are working together in that direction.

Mr Quirin: M. le président, l'honorable ministre peut-il confirmer que le bilan financier de la MASA est déficitaire, et cela, depuis plusieurs années financières, et qu'une bonne partie de l'argent qui devrait revenir aux artistes sert à payer les frais administratifs ?

Mr Roopun: Mr Deputy Speaker, Sir, I may confirm that for the last financial years, till 2013, the financial statements had not been prepared, and the services of a firm have been enlisted in May 2016. Up till now, final accounts for the years 2013, 2014 and 2015 have been prepared and submitted to the National Audit Office and, of course, once it has been audited and filed, we will have a better idea about the financial situation.

The Deputy Speaker: Last question, hon. Quirin!

Mr Quirin: Merci, M. le président. L'honorable ministre peut-il dire à la Chambre le nombre de procès intentés à la MASA par Monsieur V, que tout le monde connaît, chanteur-compositeur, M. Veeraragoo, le père de l'actuel président du *Board* de la MASA ?

Mr Roopun: What I can confirm is that there have been cases entered by Mr V, but I cannot state the exact number.

The Deputy Speaker: Hon. Members, the Table has been advised that PQs B/675, B/720, B/721 have been withdrawn. Next question, hon. Baboo!

PEDESTRIAN FLYOVERS – SECURITY & LIGHTING

(No. B/706) **Mr S. Baboo (Second Member for Vacoas & Floreal)** asked the Minister of Public Infrastructure and Land Transport whether, in regard to the pedestrian flyovers along the motorways, he will state if consideration will be given for the installation

of Closed Circuit Television Street Surveillance System cameras and additional lighting thereat and, if so, when and, if not, why not.

Mr Bodha: Mr Deputy Speaker, Sir, I am informed by the Road Development Authority that it is responsible for the construction of pedestrian flyovers along motorways and for the structural maintenance thereat. Cleaning and regular maintenance, therefore, fall under the purview of the respective local authorities while the security aspects lie with the Police Department.

Mr Deputy Speaker, Sir, I would like to highlight the fact that the last flyover constructed by the RDA dates back to 2015. It seems that most of the flyovers are not fully used by the public. The possible reasons may be attributed to long walking distances and to lack of security. I am, therefore, proposing that the Traffic Management and Road Safety Unit carries out a survey to determine the exact reasons why pedestrians are reluctant to use the flyovers. In the light of the findings, appropriate measures will be taken in consultation with the local authorities and the Police.

I have also instructed the RDA to consider providing lighting in all the flyovers, especially in hot spot areas.

Mr Baboo: As the hon. Minister is aware, the pedestrian flyovers are often used as shelters by drug addicts. Can he, therefore, see to it that there is frequent Police patrol for the security of these pedestrians pending the installation of the cameras?

Mr Bodha: My hon. colleague is right. That is why we said that we would have a survey, but the sad thing is that the flyovers have cost a huge amount of money and they are not being used as it should be used. So, that is why we are going to do the survey, and we are going to work with the Police and the local authorities to see that we have security and lighting.

The Deputy Speaker: Hon. Members, the Table has been advised that PQ B/722 and PQ B/723 have been withdrawn.

Hon. Members, Question Time is over. I suspend the sitting for 10 minutes.

At 3.53 p.m., the sitting was suspended.

On resuming at 4.03 p.m. with the Deputy Speaker in the Chair.

MOTION**SUSPENSION OF S. O. 10(2)**

Sir Anerood Jugnauth: Mr Deputy Speaker, Sir, I move that all the business on today's Order Paper be exempted from the provisions of paragraph (2) of Standing Order 10.

Mr Sawmynaden rose and seconded.

Question put and agreed to.

Second Reading

THE ROAD TRAFFIC (AMENDMENT) BILL

(No. X of 2018)

Order read for resuming adjourned debate on the Road Traffic (Amendment) Bill (No. X of 2018).

Question again proposed.

The Deputy Speaker: Hon. Bérenger!

(4.01 p.m.)

Mr P. Bérenger (Third Member for Stanley & Rose Hill): Mr Deputy Speaker, Sir, we all know how dramatic the situation has become in Mauritius as far as road accidents in general are concerned, and especially fatal road accidents. Therefore, it is obvious, *c'est l'évidence même* that the Bill before the House that we are discussing is a very important piece of legislation. Therefore, allow me to express our appreciation, my appreciation, for the fact that last Tuesday, the hon. Minister presented the Bill at Second Reading, made his Second Reading speech, and then moved for the debates to be postponed by one week. This is how we should work. Therefore, I express my appreciation of that way of doing it, especially when we are considering that kind of piece of legislation and the dramatic situation which has arisen as far as road accidents are concerned. But having said that, I must say that in his speech, the hon. Minister was quite confusing. I am not saying 'confused' to be nice.

But what he said, the way he said it was certainly quite confusing at times and has added to the confusion around the whole subject, especially of drink-driving and drug-driving, Mr Deputy Speaker, Sir.

Others, hon. Baloomoody and hon. Mrs Selvon, on our side, will speak on other aspects of that Bill. For my part, I shall speak only on two aspects of that Bill, drink-driving and drug-driving, that is, driving under the influence of either alcohol or drugs.

Let me start with drink-driving! I must say I find it quite shocking that the hon. Prime Minister was not present when the Bill was presented and the hon. Minister made his Second Reading speech is not present today when we are discussing such a subject. I find it quite shocking, I must say. I did not mean to say that, but it is really quite shocking.

In his Budget Speech, the hon. Prime Minister said that Government was going for zero tolerance, but in the Bill before the House, we know that it is not zero tolerance. In the Bill before the House, the prescribed limit that is in the law for alcohol, is being brought down from 50 milligrams of alcohol in a 100 ml of blood - I will use only the blood reference, that figure of 50 - therefore, the prescribed limit is being brought down from 50, as it is today, to 20, not to zero, but to 20.

Therefore, the prescribed limit, the allowed limit if we can say, but the hon. Minister does not like that expression and I agree with him, is being brought down from 50 to 20, that is being brought down by more than 50%, which is a lot. In his speech, he keeps on insisting, in quite confusing language that, in fact, this is zero tolerance. And why does he say that? He gives us two examples, which are valid. He gives us two examples why he - and Government, I think - describe that bringing down of the prescribed limit from 50 to 20 as zero tolerance. What the hon. Minister said to explain this is, I quote him –

“(...) a man of 65 kg, consuming one glass of beer (...)”

Beer, we can convert it into wine, whisky, rum and so on.

“(...) on an empty stomach, will have a Blood Alcohol Concentration (BAC) (...).”

That is this allowed limit.

“(...) of 30 (...)”

That is, it is okay as far as the new limit is concerned, but -

“If consumed during a meal, the BAC will be 20.”

30 is above.

Therefore, just one glass of beer on an empty stomach for a man of 65 kg would place him outside the limit of 20, would place him at 30. And if only one glass of beer is consumed during a meal, then it will be 20, just the limit. But what is terrible is whereas in the case of a woman of 65 kg - the reference to the same weight, it is the Minister's, it is not mine - consuming one glass of beer on an empty stomach will have a Blood Alcohol Concentration of 35. That is way above what is being recommended and if consumed during a meal, it will be 25. Therefore, even if consumed, there is a discrimination written into that. That is why later on, I will make a recommendation that this figure of 20 must be changed because it is too low. I will come back later on, but also because it discriminates in an unacceptable way against a woman. Therefore, this is the explanation of the Minister that, in fact, placing the limit at 20 instead of 50 is equivalent to zero tolerance because he has given the figures. The reference is one glass of beer in the case of both a man and a woman.

The hon. Minister told us that this Blood Alcohol Concentration figure of 20 was recommended by the Forensic Science Laboratory. I will quote the Minister because this is really confusing language. Therefore, he says it was recommended by the Forensic Science Laboratory “to avoid false positive and also to cater for body alcohol”. We are supposed to understand perfectly what that means. We are supposed to understand straightaway, because it is not explained at all by the Minister, what false positive means and what body alcohol means. We can guess. Supposedly, the Forensic Science Laboratory has made that recommendation. It is not clear at all what is meant by false-positive and body alcohol. I maintain that it is not the role of the Forensic Science Laboratory to recommend the limit. They are technical people. They carry out tests. They tell us what tests they can carry out, what they can detect and not. But it is not their role. In other countries, when experts have looked at this problem, for example, in Russia - I will come to that later on - it is not the Forensic Science Laboratory that has set the limit or recommended the limit. It is not their role. It needs to be a wider team of experts that advise Government on fixing this limit.

After having expressed my appreciation on the way the Minister has behaved, I must really *faire de gros efforts* to be nice at this point in my speech because the Minister told us

that in Europe, the tendency has been to adopt the 20 limit. It is not true! And I will give the figures. And I do not know why the Minister sticks his neck out to say that. He has just told us that it is the FSL that advised 20, bringing down from 50 to 20. So, there is no need to present a tendency that does not exist. The Minister knows that because he says that in Europe, the tendency has been to adopt the 20 limit, but, in fact, he manages to give as examples of countries that supposedly have been part of that tendency. He manages to name three countries only: Sweden, Estonia and Poland. And that is a fact. It is a tiny minority of countries in Europe and across the world that have opted for this 20 limit and for good reason. I will come to that later on.

This morning, I started counting how many countries. I got lost because the vast majority - contrary to what the Minister said - of countries have the same 50 limit that Mauritius has actually. The vast majority of countries across the world and including France, Germany, Australia, New Zealand, South Africa and so on and so on and so on.

A vast majority of countries have the same 50 limit that we have at present and that we want to bring down to 20.

In fact, not only the vast majority of countries have the same 50 limit as us, quite a number have an 80 limit, that is, much higher than the 50, and it is very much higher than the 20 limit that is being proposed. Quite a number have an 80 limit, including England and Wales, the US, Singapore, Canada and so on. Some, including India and Japan, have a 30 limit and - I will come back to that later on - I believe that is the solution. Not 20! 20 is too low. 20 will bring a lot of problems. 30, as in India and Japan, where the law provides for this 30 limit.

And there is the interesting case of Russia. In 2010, under the former President of Russia, they decided to go for real zero tolerance. Not 20! They went for real zero tolerance. Then, three years later, in 2013, they re-introduced a prescribed limit. At what? At 30! Based on their own experience and the experience of a number of countries across the world, *ils ont constaté l'échec*. They tried zero tolerance, it did not work. In fact, it resulted in a lot of public anger, in a lot of problems because a lot of people lost their driving licences unfairly.

Therefore, the pressure built up and three years later, in 2013, the limit was re-introduced and fixed at 30, based on their own experience and on the experience worldwide. But in the case of Russia, I must say President Putin set up a team of experts that looked

around the world; that looked at their own experience and finally came to this figure of 30, compared to our limit of actually 50 and proposed 20.

Let me say very clearly that we all - as far as we are concerned - agree fully that we must combat drink driving. I am sure there is unanimity on that drink driving. We must combat drink driving and we agree that the present 50 prescribed limit needs to be brought down.

Although, as I said, the vast majority of countries across the world have this same 50 limit as us, we agree that it needs to be brought down. But the basic question, the key question is, if we bring it down from 50, we bring it to what? 20! 30! 40! That is the key question and it is a very good question because depending on the answer we give, we can have a lot of problems in the weeks, months, years to come. That is the key question.

Of course, we know that this limit, the law is a bit strange because the Road Traffic Act, the main Act provides that these limits are provided in the Act, but can be varied through regulations. Therefore, I heard the argument in the quarters concerned: let us put 20, if we meet with problems, through regulations as the Law allows, we will change. That would not be serious at all and that would add to the already confused situation existing. Therefore, I don't think we should adopt this attitude. Let us go for 20, if it does not work, there are too many problems, and there would be problems, we will change it through regulations.

I think this would not be acceptable. In his speech, the Minister told us that a communications' campaign will be undertaken to clearly explain the zero tolerance idea. Although, as I said, it is not zero that is provided for in the Bill, it is 20. But, therefore, there would be a campaign and it is required, there is need to eliminate confusion. I agree fully that whatever figure we choose, we stick to the 20 or we move to 30 or we stay where we are, there is need to do a lot of explaining, Mr Deputy Speaker, Sir. A lot! And also to explain roughly the equivalent, a glass of beer is equivalent to rum, wine and so on so that people know what is permissible and what is not, what is dangerous even and what is not, Mr Deputy Speaker, Sir.

Let me repeat and I want to be clear on that. We do fully agree that we must all join efforts to combat drink driving and we agree that the present 50 prescribed limit needs to be brought down. I personally believe that it should be brought down to 30 as in India and not to 20 as is being proposed. 20 is too tight, people will jump over that limit easily and I suppose

that is what is meant by this mysterious expression of body alcohol, for body alcohol and so on. With 20, it means women are not entitled to have a drink or they are outside the road. Men ...

(Interruptions)

The Deputy Speaker: Order!

Mr Bérenger: Yes, therefore, we are in a country where they are not allowed to drive.

(Interruptions)

Yes, this is what it amounts to. Men can have one glass of wine and drive, women no. Seriously this is not acceptable. I find this not acceptable. It is too tight and that is why problems arose in Russia. People lose their driving licences unfairly and even the day after, if you have decided you are not going to drive tonight and have a good drinking night, when you jump over 20 the next day without having had any drink on that day. The scientist will confirm that. This is how it is going to work out.

I must say, it is only yesterday that my colleague, hon. Baloomoody, has come across, but I am glad that it confirms what I am saying. It is Barlen Munusami, I understand, a policeman, the expert on subjects, a very interesting book that it is only today that I have been made aware of its existence. Better late than never and I am glad to read that in his comments he says - 10 to 30: tolerance zone of threshold, no disorder, no problem; 30 to 50: beginning phase, no noticeable problems but especially reduced visual range, disturbed movements, poor appreciation of distance and so on.

Therefore, *entre les lignes*, what he is suggesting - and my colleague will come back on to that - the 30 limit that I think we should adopt. Therefore, I make a formal request to Government let us move together. 20 is too tight. 20 is going to land us in a lot of problems. In India and in Russia, after they corrected a former decision, I do not think it is difficult to agree on 30 and move ahead, Mr Deputy Speaker, Sir.

Before I leave drink-driving, I am a bit surprised that the opportunity has not been taken by the Minister to toughen the penalty for refusing breath test, Section 123G of the existing Road Traffic Act. It is not too late and it is easy. If we want to, it is easy to bring an amendment at this stage. It is not too late. This existing paragraph is not acceptable. It says that –

“A person who, without reasonable excuse, fails to provide a specimen of his breath for a breath test under subsection (1) shall commit an offence and shall, on conviction, be liable to a fine (..)”

And then second offence of that kind and so on.

I think the Minister should, as we proceed today, come forward with his technicians, can, I am sure, work out an amendment within a few minutes. We should toughen. Nothing personal is meant and I am not playing politics on that! But it is not acceptable that somebody, who is clearly under the influence of alcohol and driving, refuses a breath test, and nothing happens. He is not arrested. He could be arrested by a Police Officer, but otherwise no. I think it is not too late to change that piece of legislation. That is my main contribution on drink-driving, moving from the prescribed limit of 20 that is being suggested, instead of the existing 50 to 30.

I shall move to drug driving, Mr Deputy Speaker, Sir. Again, in his Budget Speech, the Prime Minister, Minister of Finance and Economic Development gave the impression that Government was going to move ahead now. The tone of his expression: “I am providing funds to purchase equipment and so on. The Road Traffic Act and the Dangerous Drugs Act will be amended accordingly.” So, the impression was given that dealing seriously with drug driving was going to be done now. That is the impression given. But in his speech on 17 July, the Minister for his part informed us that the appropriate legislation is being prepared. At page 23 of his speech, the legislation will be introduced in the National Assembly this year.

My point is that it should already have been prepared. Being given what was said in the Budget Speech by the hon. Prime Minister and Minister of Finance and Economic Development, expectations raised, it should already have been prepared, both of the legislation and the required procedures, including the Field Impairment Assessment; the kind of first test by the roadside. The Field Impairment Assessment which has been in place in the UK and elsewhere for years, and has been referred here in this House by hon. Mrs Selvon since 2015.

Therefore, the legislation in the UK and elsewhere has been available for years. The procedures have been worked out for years. Therefore, it should have been possible to have this legislation ready now, as we are discussing amendments to the Road Traffic Act. *Surtout qu'il y a urgence*. That is what I have been pointing out since Budget Time. *Il y a urgence*, Mr Deputy Speaker, Sir. New Zealand is a great country. It has been *à l'avant garde* of all

sorts of things over the last 20 years. Really *un pays d'avant garde!* In New Zealand, it was reported on 14 June last, a few days ago, that for the first time more people died on New Zealand's roads last year after collisions involving drug driving and drink driving. For the first time! The number of people who lost their life because of drug driving was higher for the first time than the number of people who lost their life for drink-driving.

Hon. Baloomody and myself have been looking for information; we have been asking people and so on. Our information is that the situation has become very serious here in Mauritius. According to our information, numerous accidents are caused by drunk drivers including *drogue synthétique*. *Il y a urgence*. That is why I say the work could and should have been done, and the amendment for drug driving should be dealt with now. *Mais seulement*, it is better late than never! Do it as rapidly as possible. The point is, today, hon. Baloomody had a Parliamentary Question B/730, precisely to get facts and I am sure, the hon. Minister must have prepared the answer. Question Time was over before we reached that question, but please circulate it. If the information is available, circulate it. If it is not, have your staff work out. I believe that we are in a *situation d'urgence*. With New Zealand in mind, we should not waste time. *Il y a urgence*. Therefore, there is need for the required legislation and procedures to be in place as soon as possible.

Now, concerning the specialised equipment to detect and sanction drivers under the influence of drugs which the hon. Prime Minister and Minister of Finance and Economic Development announced in the Budget Speech. The hon. Minister in his speech has again caused confusion and there is need for clarification there also. In his speech, the hon. Minister referred to detection kits/roadside kits to be procured by the Police and validated by the Forensic Science Laboratory, but also to an instrument. I must find his speech because the instrument which the hon. Minister said - excuse me Mr Deputy Speaker Sir! He stated -

“Meanwhile, the Forensic Science Laboratory has issued the Letter of Award for procurement of a - I hope I say that correctly - *Liquid Chromatography High Resolution Mass Spectrometry* for testing of physical form of both synthetic and non-synthetic drugs.”

And our legislation is not ready, the hon. Minister added -

“The equipment will be delivered by end of August 2018.”

Therefore, clearly we will have the equipment before we have the required legislation in place. What is this *bébête*? I would like to know, this Liquid Chromatography High

Resolution Mass Spectrometry, the Commissioner of Police Nobin made reference thereto recently in a speech, but, of course, as usual, he added to the confusion more than anything else. But is it true that we have already - I hope it's true - tendered for, ordered, according to what the hon. Minister said, this instrument that will detect not only classical, traditional drugs, but synthetic drugs as well?

I am sure everybody in the country will be interested to know, because as far as I know, the roadside drug kits, which the hon. Minister referred to, in use in the UK, allow for screening for cannabis and cocaine only, whereas we are told that this instrument that I have just referred to, allows for synthetic drugs. I insist on that because, I repeat, according to our information, a good number - we should try to establish how many road accidents, especially fatal road accidents, have been caused recently over the one, two, three years, by synthetic drugs.

I must add that in New Zealand - again, I make reference to New Zealand -, it has been argued that saliva testing devices would be must faster and allow many more potentially drug impaired drivers to be tested. Therefore, I would request the hon. Minister to give us as much clarification as possible on the specialised equipment that is being ordered.

Thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: Hon. Rutnah!

(4.35 p.m.)

Mr S. Rutnah (Third Member for Piton & Rivière du Rempart): Thank you, Mr Deputy Speaker, Sir.

Mr Deputy Speaker, Sir, the current situation in Mauritius is at when parents are sending their children from home to work and when they are saying 'Bye, good bye', and when children are leaving home, sometimes they see dead bodies coming home thereafter. Children are saying 'good bye' to their father and their mother when leaving home to work, but when returning, they are seeing the dead body of either the father or the mother coming home, and this, virtually, every month in the country. Why? Because someone has tried to become Mel Gibson, driving like Mad Max, and killing people for many reasons on the road.

Mr Deputy Speaker, Sir, we are in a phase at the moment insofar as road accidents are concerned. It is going out of control. Out of control because of carelessness, recklessness, sometimes intentional and sometime because, as I said, someone wants to be Mad Max on the

road. In difficult times, we have to make difficult decision. There should be no confusion about it. We are living in difficult times at the moment insofar as our road safety is concerned.

There are four main features to the current Bill before us. The first feature is the introduction of the fixed penalty notice regime, and briefly, where even if someone has refused a fixed penalty notice, can later on now elect to be issued one, so that he still have the option of paying the fixed penalty notice rather than going through the Court procedures, but I am not going to dwell too much on this issue.

The second is criminalising - the new offences.

The third is increasing fines. We have to be tough on offences and the causes of offences.

Fourth is the zero tolerance of driving whilst on drink or intoxication.

Mr Deputy Speaker, Sir, given the tone of the Third Member for Stanley & Rose Hill, the conciliatory tone, I am not going to engage into a confrontational debate - because I was anticipating a very hot chilli sort of debates -, but I am going to be also adopting a moderate tone. There should be no confusion, and there is no confusion as far as I am concerned in relation to two aspects which the Third Member for Stanley & Rose Hill referred to, namely the drink driving and the drug driving.

Let us look at what the hon. Minister said in relation to the zero tolerance. We have to put in perspective what the hon. Prime Minister and Minister of Finance said during his Budget Speech insofar as zero tolerance is concerned and how the hon. Minister Bodha described the zero tolerance.

So, firstly, we have the speech in which there is no description and, secondly, we have the speech of the hon. Minister Bodha where he describes zero tolerance. I was taking notes when he was making his speech, because I was also concerned about this zero tolerance business. He said that following -

(...) the philosophy behind the zero tolerance alcohol approach is to drive with the minimum amount of alcohol in the body and it does not necessarily equate to setting limits to zero, but rather to the lowest amount that it can be reported reliably and avoid false positive results. Setting a zero tolerance limit means to detect and identify

the lowest level of alcohol in the body when taking measurements in the blood, breath or urine at which a valid and reliable analytical result would be reported with certainty. This minimum prescribed limit would cater for passive consumption (...)"

The crux of the matter, the operative words are -

(...) prescribed limit would cater for passive consumption, medication or inhalation and endogenous alcohol that may be produced naturally by the body. The Forensic Science Laboratory has reported that they can reliably report up to the lowest level of 10 milligrammes per 100 ml of blood."

So, there should be no confusion about it. When we take what the hon. Minister said as a result of the report of the Forensic Science Lab, there should be no confusion. But we know, sometimes when we are before our bottle of Johnnie Walker and swallowing one after the other, we can get confused. But insofar as this piece of legislation is concerned, I see no confusion, and there should be no confusion. The law is the law.

If it is 20 milligrams or micrograms per 100 milligrams, that should be adhered to. It is a message that is being sent that you are not even allowed to consume, even though you are a man or woman, a drop of alcohol before taking your steering wheel. If you do so, you are likely to be committing an offence, whether you are a man or a woman, and there should be no discrimination because we are a country where the rule of law should apply, whether you are man or woman. There should be no concession about it. 20 micrograms per 100 millilitres, that is going to be the law.

Now, we have heard it a number of times, especially Defence Counsel, people who are in Courts everyday. When someone is caught on the street for drunk-driving: '*Ah, mo ti bwar hier asoir, la police la ine dire moi souffler, be ballon ine monter*' *Et ou là!* Even if you have drunk last night or the previous night or whenever, it is your responsibility to ensure that when you are tested, you are not tested positive of alcohol, whether one glass of wine or one glass of beer, of Stella, of Phoenix or whatever you call it. There should be none and this is the signal that we have to send to our children.

This is the signal we have to send to our people. Because what is happening nowadays? It is because we are saying: 'Okay, one for the road.' And that one for the road can be the killer. That one last drop can amount to be the killer and we do not want that. We have to be tough on the causes of the offences and we have to be tough on the offence.

Otherwise, children will continue to see their parents leaving home safe and sound, but returning dead body, and the next day, body living in a coffin. So, we have to be serious about what we do. There should be no compromise.

Now, let us talk a bit about drunk-driving. Today, some people think that they hold a licence to kill on the road. If they do not drink, they go and procure all sorts of drugs, synthetic drugs, heroin, cannabis, you name it, and then after that, they are going on a frolic of their own downtown or uptown, and they do not even have control over their body and their mind. So, how would you expect that they would have control of a steering wheel and tons of metal built vehicles on the road? And most of the accidents these days are our youngsters, drink-driving, dangerous driving. So, we have to be tough.

Now, there is the issue taken about what the hon. Prime Minister and Minister of Finance said in the Budget about financing and what the hon. Minister Bodha said about drug-driving. Hon. Bodha referred firstly to this doctor of Forensic Medicine and Emergency, Dr. Guyon. And he, apparently, is the Head of the Licence Training Centre of Haute Savoie. And he visited Mauritius; he carried out a study and he has reported to the Ministry about how to deal with drug-driving, including synthetic drugs.

Now, I understand from the speech of hon. Bodha that the Forensic Science Laboratory has issued a letter of award for the procurement of a Liquid Chromatography High Resolution Mass Spectrometry and this machine, whatever you call it, whether it is a *bébête* or whatever, this machine is for testing of physical form of both synthetic and non-synthetic drugs. But it is very easy. If you go on the Internet these days, you just type the word, you will get all sorts of information about it and that can tell you, I am not going to read what I have found from the Internet; that can easily clear any confusion as to whether this apparatus is designed really to test synthetic and non-synthetic drugs.

So, if we have got an expert who has advised and says that this is what you should have in your country, we cannot challenge his expertise. And what has the hon. Prime Minister and Minister of Finance done? He has allocated the sum of Rs25 m. to procure machinery apparatus in order to deal with these synthetic drug problems, driving problems.

Now, why it is not included in this Bill? We are, as I said, in difficult times. The Road Traffic Act, the First Ordinance was in 1939. Since 1939, I think, we have had like 75

amendments of, firstly, the Road Traffic Ordinance 1939, then it became the Road Traffic Act later on and we have had like 75 amendments in it.

As our society progressed, we had to review the legislation. And since 2000, I think we have had not less than 10 amendments in the Road Traffic Act. But in difficult times, we have to take difficult and serious decisions. At the moment, we cannot wait to bring everything together and wait indefinitely. We legislate now and it would not be unusual when in August, we procure the machinery, the apparatus, then we come back again and amend again if we need to, and this to protect our society, to protect our children.

Mr Deputy Speaker, Sir, I am not going to be long. I think I have dealt with the two issues in relation to drugs and drink-driving. The bottom line is this: we have to send a clear signal to those who think that they can drink a little bit and drive, and that little bit should never be allowed to, because our body naturally produces alcohol and if you drink, even depending on your body's consistency, even if you drink half a pint of beer or half a bit of Johnny Walker, it can still increase the percentage of alcohol in your system because our body is designed to produce alcohol.

So, the message is clear, please it is zero tolerance but there is some allowance given and description has been given to the zero tolerance because our body produces alcohol. So, do not drink, do not drive, do not test it either because we want a safe country, safe road, a modern and safe road system where when we leave in the morning safely, we come back home safely, we see the face of our wife, our children, our father, our mother always smiling when we leave, we come back always smiling. This is the sort of society we want and this sort of road safety we want.

On this note, Mr Deputy Speaker, Sir, thank you so much.

The Deputy Speaker: I suspend the sitting for half an hour.

At 4.54 p.m. the sitting was suspended.

On resuming at 5.37 p.m. with Madam Speaker in the Chair.

Madam Speaker: Hon. Baboo!

Mr S. Baboo (Second Member for Vacoas & Floreal): Thank you, Madam Speaker. I will not be extensive, but to the point on this Amendment Bill and our road traffic

problems. I firmly believe, like most Members on this side of the House, that this Bill arrives late. There have been two previous Bills brought by the hon. Minister which have, unfortunately, not given end results.

It would be digressing if we make politics with a Bill which is here with the intention to decrease road fatalities, but it is clear that this Bill comes late. After the record hitting deaths and casualties on our roads, after our deadly roads have caused so much suffering to families, dreams, ambitions having prematurely been destroyed when there have been road casualties nearly every day.

The cancellation of the penalty point system and the promise to introduce a much simpler system and switching off the speed control cameras have been the decision of *l'Alliance Lepep* and part of its electoral campaign. Yes, it is clear that this decision which we have, unfortunately, been part of, has been a bad one. But, the concerned Ministry and the attached highly remunerated advisers responsible for our people's road safety should have been farsighted. The sharp rise in road fatalities and that road safety which was going out of control was, in fact, a wake-up call for the Government that it was time to act quickly.

It was then the time, Madam Speaker, to bring this type of Bill to the House. We, Mauritians, are famous for the saying: '*après la mort, la tisane.*' As we say only stupid people who never change their minds and this applies to key decision-makers as well. We have seen the inability of this Government to see things from a different perspective. Yes, we should not do politics with the lives of our citizens, but the Government seems to have taken things too lightly. To have been fixed on its unwavering stands and delays in bringing in bold measures to decrease the road fatalities. A good Government would have done what was necessary and bold measures ...

(Interruptions)

... should have been brought quickly to counteract this facility trend on our roads after almost four years and nearly at the end of its mandate that it has woken up to tighten the law.

Well, Madam Speaker, better late than never. We are all aware and it is a fact that there is some bad, irresponsible driving culture in Mauritius because of some poor drivers on our roads. There is no lack of road traffic offences, from using cell phones, reckless driving through red lights, a few *hyper pressés*, speeding beyond the recommended limits, overtaking vehicles at pedestrian crossings or destabilising other drivers on the road, pressing them to

give way. Those who do not give the right of way to pedestrians, the lack of courtesy which frequently result in dramatic, shameful situations with loud behaviour and profanity.

There is also the problem of bad pedestrians who pay more attention to their cells or earphones rather than their surroundings, crossing on the motorway or against the light. There are some, even parents with a child in tow, who will avoid going, took a crosswalk which will require a *long detour*, they would, therefore, be indifferently stepping off the curb in between intersections. It is a matter of fact that Government alone cannot solve these problems. There is a traffic safety responsibility and values of the road users, the high growth in vehicles on our road, the lack of Police presence and Police intervention, the limited means to catch those who do not drive well or adding up to the discordance in our road laws and road safety policies.

Madam Speaker, the steep rise in road accidents when in the year 2012, there were 21,195, that rose to 29,627 in 2017. An increase of 1.2% merely for the period 2016/2017, with an increase of 15.2% in fatalities and a rise of 8.7% of casualties for the same period according to Statistics Mauritius and casualties, of which around 40.2% were riders of motorcycles. With all these alarming figures, the Government had surely realised the security problem on our roads, but the policies were not consistent and result-oriented and the decision to only set up awareness campaigns.

The awareness campaigns, road shows, unfortunately, failed to remediate the road safety problems and which us brings us finally to this Bill. The Bill, Madam Speaker, does comprise some important omissions of the Act and which needed to be reviewed with the new challenges on our roads for the interest of our drivers, motorcyclists and pedestrians. Like offences 79, 80, 81 and 123 as per the Explanatory Memorandum, I here think of the town of Quatre Bornes, especially St Jean Road and La Louise which is known for its traffic roads owing to some poor drivers.

The deliberate obstruction caused by some private buses in that already traffic pack region, a situation which is risk prone for drivers and pedestrians as well, buses station at the Bus Stop for a longer period of time where we can see some bus drivers who are, at least, affected by the Police or by the current road offence penalties, these situations which force pedestrians to cross in front of or behind buses and buses to stop on the main road instead of the bus stop and blocking the road network of that region.

For that reason, it is anticipated that these increasing penalties, as proposed in this Bill, will attempt to remedy the chaotic traffic situations in those several problem prone regions. With all the good intention of the Minister in bringing this Bill to the House, Madam Speaker, it will be, however, still hard for the proposed measures to bring positive changes if there is no proper coordination, strong commitment and initiative from the Police Force. If we look at the Strategic Policing Plan 2015/2018 of the Mauritius Police Force, with the objective to render our road safer by reducing the number of road accident, killed and seriously injured by 3%, we dare to reckon on the proclaim strategies of the Police to be more visible, accessible and available when it concerns road safety.

There is the issue of some crazy drivers who are not affected by the Police because of a few lame ducks in the Police Force spoiling the flock and their law enforcing objectives due to some policemen lack of commitment to restore discipline and take action when needed. I believe many of us have been eyewitness and surprised of situations with the presence of policemen. Their baffling, slackness towards infractions to the law like car-park at the bus stop, blocking the normal course of buses and resulting in traffic jams or drivers going through red lights and when we see policemen or police car packed with policemen passing by and making a blind eye to these road traffic violations.

Madam Speaker, there are many offences stipulated in this Bill which we believe with the lack of the Police to act and where required can be rendered of no use. To ensure the enforcement of measures of this Bill, there should be proper monitoring by the authorities, that the laws are respected by drivers and vehicle owners and no lawbreakers pass through the filters of the authorities. I strongly believe that some of the offences listed in this Bill, Madam Speaker, should have been handled, especially by the authorities. I here make reference to offences 110 to 113, 137 to 140, offences 192 and 194 as per the Explanatory Memorandum should all be there to serve its purpose, to be followed and monitored if we want a change in our driving culture.

But then again, there is the issue of lack of means which may tamper the purpose of this Bill and its end results. Feasibly speaking, the offences relating to the vehicles body like altering silencers, fitting of spot lamps, interior mirror not as prescribed and so on, in the same line as increasing the fines as per this Bill, the Minister could have possibly come forward by imposing that all the offences relating to the body of the vehicle be delegated and looked into by the fitness centres. Such that all fitness certificates attest that examined vehicles abide and are under all the norms as required by the traffic laws.

It is for sure, Madam Speaker, that the most vulnerable on our road remains the two tires and this Bill does not provide enough stringent measures to counteract the dangers facing the motorcyclists and their passengers. We have seen the extreme vulnerability of the two tires mostly because of the lack of experience and the irresponsibility of motorcyclists. We have, therefore, anticipated more severe measures in that respect, like I mentioned during my intervention on the Budget, since we do not have a special lane for motorcyclists and bicycles, more rigorous measures should be brought forward for motorcyclists with learners.

Like the imposition of new regulations for restricting the number of roads and hours, as well as the imposition of limiting the time period for holding learner driver rendering it null and void if time frame is lapsed, thereby regulating the number of inexperienced motorcyclists on our roads and decreasing road accidents. Motorcyclists with learners are driving with two in all the roads and at any time even at night. Even if the proposed offence 19 of Bill makes provision to reprimand those carrying a passenger on a motorcycle or and auto cycle, not constructed or adapted to carry more than one person, we still believe that the Bill lacks stringent measures when it comes to inexperienced motorcyclists and those with learners.

If we consider the Bill, its objective to do away with the present regime of fixed penalty notice and consolidating the list of offences to which a fixed penalty notice may be served and increasing the fines for road traffic offences can be considered as positive measures being proposed to decrease offences and the number of accidents. Section (a) of this Bill's Explanatory Memorandum with respect to FPN can, however, be taken as a deprivation of the right of the individuals with the pretext that the offender finally opts for the FPN. This specific object of the Bill, Madam Speaker, can be interpreted as a false excuse to fill in the revenue of Government. If the hon. Minister could clear our doubts on this section in his Third Reading.

Coming back to road traffic offences perverting to this Bill, Madam Speaker, I would dare say that there is a necessity to solve the problem at its root itself. The *Moto-école* will hopefully show its positive result with respect to motorcyclists in the long-term. But what about the education of our future drivers? The practical driving licence test, Madam Speaker, has made its time and does not fully serve its purpose; as such it should be upgraded to meet the increasing risks and challenges of our road.

The test of competence to drive a motor vehicle is too simple and far too easy accessible. If we reflect on the way the practical test of performance at Les Casernes and on the roads of Port Louis, normally at a maximum speed of 30 to 40 km/hr. If we take the case of a learner driver who is taking driving lessons in view of obviously obtaining a driving licence, his driving instructor will be teaching him robotically and systematically as to each of his student all the tips and tricks of the driving test for them to pass the practical test but which, unfortunately, do not really prepare them in conceptualising the risk of our driving environment to be future good drivers.

Apart from the generic measures of increasing the fines of this Bill, in line of reviewing the practical driving licence test, as I mentioned before there, should have been a type of crash course programme delivered by the Police Force to the driving licence seekers, crash course about the road safety or even where family members who have lost a close one or accident survivors can come and discourse on the importance of safe driving in order to create more of an impact like in the United States, Madam Speaker, where there is the requirement for drivers to attend a comprehensive Drivers Education Programme, which includes both theory and a number of hours behind the wheel lessons either dispensed at the high school or at a professional driving school by certified driving instructors before they can apply for a licence.

Also, the newly licenced adult drivers are made to be on probation for a set amount of time, which is usually between six months and two years, during which traffic violations carry tougher penalties or mandatory suspensions that would not generally apply to experienced drivers.

Madam Speaker, although the hon. Minister had briefly stated that amendments need to be made to the Dangerous Drugs Act for drivers caught under the influence of drugs, the deadly accidents rocketing on our roads together with the increasing threat of driving intoxicated, it is alarming that we are having a third amendment to the Road traffic Act being brought to the House by this Government when no provision is being made to head off the problem. This is again an example of piecemeal measures and which certainly do not run parallel with the Government's fight against drug.

Driving under the influence of drug is a major problem in most developed countries and laws are continuously being intensified in that perspective to ensure road safety. Despite the major killers on the roads today, it is found that drug is a hidden one.

Madam Speaker, a recent survey carried out in the UK found that one in seven young drivers admitted driving after consuming drugs. And according to the French Road Safety Observatory, around a quarter of French road deaths involves a driver that tests positive for drugs. The report of the second technical consultation on 'drug use and road safety' of December 2015 of the World Health Organisation states the increasing burden and challenges of drug use and road safety, including the changes in drug policies, the introduction of new substances, and advances in technology. The World Health Organisation also points out that developments in the field of road safety and drug use need to be in parallel and harmony with developments in overall drug policies.

New drug driving laws were introduced in England and Wales in March 2015, whereby illegal drugs were given a zero tolerance approach and where medical drugs thresholds were set. On a national scale in the United Kingdom, the introduction of roadside testing has led to a dramatic increase in offenders caught for drug driving offences. Despite the fact that it is more expensive than alcohol testing, the wider benefits like time or disruption of other crimes have been seen with a 95% successful conviction rate in 2015 compared with 52% in 2012.

Synthetic drugs being a national issue and with its increasing threat among our young people, we were expecting *avant-gardistes* measures being brought with this Bill to prevent potential threats on our roads. It is high time for the Police Department to invest in state-of-the-art tools and equipment. Appropriate devices like detectors for synthetic drugs should be provided to Police to detect drivers under the influence of drugs.

Before ending, Madam Speaker, I wish to say that, unfortunately, our people are getting too used and nearly immune to the two minutes daily evening TV advertisement on road user safety practices, and which will certainly not bring the urgent practices required on our road. Everybody knows, and I will reiterate on the fact that some of our policemen are not strict to apply the law to those who do not respect them, and giving a leeway to future road fatalities.

All of you in this House or some have experienced it or some have heard it from elders on the respect and fear that our policemen emanated in the past, like being afraid of even riding bicycles at night without proper front or backlight or even without a bulb or number plate. But, now, in front of the Police Officers, motorcyclists are riding without helmets or speeding beyond limits.

Madam Speaker, I would suggest that the hon. Minister of Public Infrastructure and Land Transport come up with an official Whatsapp number, where members of the public can post photos of lawbreakers for name and shame, and even for sending a strong signal to those too permissive Police Officers. I think the House will agree with me that the same Mauritians have a different mind-set while driving in UK, Australia, Singapore, and driving in Mauritius, because he knows perfectly well that there he will not find any civil disguised in policeman. No use of bribery nor would he be able to use any network to wipe out the contraventions!

When the laws are stringent enough and they are applied without any favour, people will end up abiding and respecting them. As for our driving environment, Madam Speaker, there is a need for driver education to account for appraisal of hazard risk and relevance together with hazard detection while considering factors which promote road safety.

We had heard, in the Budget, declaration of the hon. Prime Minister of the zero tolerance of alcohol in the blood which will be applied to drivers. Many countries have adopted the zero tolerance policy towards drink-driving, and they still suffer from a number of carefree people who drink and drive. Dubai is among those which has a zero tolerance policy and with severe penalties towards drink-driving. A country which also has enough public transport and taxis available to stop people from drinking-driving has 14.33% of its road accidents caused by drivers under the influence of alcohol and which has forced it to put in place new and more stringent regulations as per its Vision 2021, in its aim to further protect the lives of its road users and to reduce traffic casualties.

Madam Speaker, there has been a lot of disputes on the zero tolerance policy announced in the Budget, and in this Bill we find instead the imposition of a reduced blood alcohol limit. We hope that the sudden change of this unpopular but necessary proposed measure is not an electoral strategy of this Government, which is on its spree of populist measures.

I was expecting the Government to come with this bold measure with a sincere effort to decrease the road fatalities, to decrease the spending of taxpayers' money on campaigns and sensitisation, and to alleviate the policemen from being rendered to babysitters of those drunk drivers and, therefore, make optimal use of our Police Force.

I will end, Madam Speaker, on the importance, apart from the policing on aberrant driving to tackle the leniency, the permissible rules towards poor pedestrian behaviours. Due

to increasing concern for the safety and interest of our people, a jaywalking policy like in Singapore would possibly have to be considered and brought to the House to instate discipline in reckless pedestrian behaviours. There is also the obligation for intensive enforcement campaigns, mass public sensitisation on the danger on the roads with the participation of the authorities, stakeholders, teaching staff, social workers and religious bodies. As such, there is a desperate need to educate the self-absorbed drivers. Motorcyclists and self-absorbed pedestrians as well as the visibility of the Police are all vital elements to make our roads safer.

It is unfortunate, Madam Speaker, that this Government, which is nearly at the end of its mandate, is trying to give a strong signal. The Bill looks to be like quite okay in theory, but will it be enforced in practice? One may come with tough laws, but if not applied it unfortunately defeats its purpose and means nothing.

With this, I thank you.

Madam Speaker: Hon. Fowdar!

(6.03 p.m.)

Mr S. Fowdar (Third Member for Grand'Baie & Poudre d'Or): Thank you, Madam Speaker. I would like first of all to congratulate my friend, the Minister, for bringing these amendments.

Madam Speaker, road traffic, road accident, road safety is not a political issue. It has nothing to do with politics; it has nothing to do with this Government or the previous Government, it is to do with the safety of the people, safety of the nation, and we had, in turn, a lot of amendments brought to the laws in order to cope up with the changes in the environment. I am happy that the Minister has come up with a lot of changes, a lot of amendments although if I were the Minister, I would have made it tougher. So, still it is good. I am happy that he has brought these amendments.

Madam Speaker, road traffic is not only an issue of laws, punishments, penalties and fines. What we need to do is a change of mentality for the drivers. We go out in the streets on the road every day and we do not know who is the driver next to us, in front or behind us, whether we are exposed or not. Whether they are good drivers, whether we are exposed to meet any accident with the drivers. So, first of all, we have to look at the drivers, Madam Speaker. I remember when I went for my driving test in Mauritius, the Inspector warned me:

'Look, do not drive fast. If you drive fast, I would not give you the licence'. Similarly, Madam Speaker, when I went for driving test in the UK, it was just the opposite. The Inspector told me: 'If you drive slowly, there is no licence for you, you have to drive fast'. Because in the UK, what they were looking for is not somebody who can drive carefully, cautiously and causing a lot of harassment to other drivers, but they wanted to have smart drivers. So, first of all, what we need to do here, Madam Speaker - I think the Minister is doing that - is to attack the issue of driving licence.

Driving licence, if you have bad drivers, they have gone through a bad school and we know we are exposed every day with a lot of bad drivers which may cause harm to us, we can also leave our life on the road. But it is a pity, Madam Speaker, that people are dying almost every day on the road. It is not only in Mauritius but worldwide. If we bring the laws, it is not going to stop those accidents. This is for sure. It can diminish the accidents. Only for those who are scared, they will have to pay fine or they will go to jail, but still there would be accidents and people will still die on the road. It all depends on us, drivers, if we want to drive carefully, then we are going to spare the life of others and we are going to spare our life as well.

So, the thing here is, we have got the laws, we can put on paper whatever we want to, we can put whatever we want to on papers, harsh punishment, fines, jail, but then if the drivers are not aware and the drivers are not scared by the law, they will continue driving carelessly. So, what we need to do here is although we have amended the laws, we need to come up with an awareness campaign, we need to scare the bad drivers, that there are laws tougher now and they have to be careful, if not there are tougher penalties, there are jails, there is a lot of things that will come. So, for me, enforcement of the law is the biggest hurdle, we can bring laws, we can do amendments, but enforcing the laws is really tough.

Let see one aspect! How do we catch people who are speeding? It is only where we have got speed cameras and what do the drivers do when they come to where there are speed cameras, they slow down, we all do that, in this House as well. So, you will have hardly people caught by these speed cameras, unless you have got some people who are not aware. But most of the drivers who come across the speed camera, they slow down. So, you never catch them, and if you see the statistics, there are hardly any accidents in these areas, because the drivers carefully drive along these areas. But, how do we catch these people? We are saying that we are going to increase the penalty for those who speed, for speeding fine, it is

going to be higher. But how do you catch them? We won't be able to catch them. So, here we have to do like other countries are doing. We have to use mobile cameras and we have to have a lot of these mobile cameras. We have to catch the drivers by surprise, and we have also to use, what we call unmarked vehicles, unmarked Police cars, who can be on the road without any marking that they are Policemen, but they can be here to catch the bad drivers.

So, Madam Speaker, for me, to catch those who are speeding, the fixed speeding camera is not sufficient, we need to have these mobile cameras, and on top of that, Madam Speaker, I remember on the first amendment of the Road Traffic Bill, I raised an issue regarding average speed check. This is a new method to catch those who are speeding and this method is very simple. You start with a camera at the beginning of the road, and you have a last camera at the end of the road. The driver has to do this area, to drive a certain miles per hour or kilometres per hour so that he does not come with the last camera in a shorter time. If he comes at a shorter time, then he has been speeding, and this is called average speed check, it is everywhere in Europe and it works well. So, in those areas where we call the key areas, where there are accidents most regularly, we can have these average speed checks. So, Madam Speaker, I think for speeding fine, we increase the speeding fine, but we need to have on top of those fixed cameras, we need to have those mobile cameras, and then we have to introduce average speed checks.

Madam Speaker, we are talking of increasing the fine for drink drivers. We even want to put them in jail, provided we catch them, and catching somebody who is drunk is very difficult. How would the Policeman know that somebody is drunk and driving, how would you stop those people, unless you have those special vans, lorries, at eleven o'clock during the night. But eleven o'clock, I know, when I go through Bagatelle, there would be stop over, I would not drink and drive, I will give somebody else to drive just crossing this. So, how do you catch those drivers who are drunk? It is very difficult, we are enforcing, we are trying to put more punishment, but we would not have people, we would not have those drivers who are drunk, but there is one thing, Madam Speaker.

I was in the UK and my son was taking private tuition and I had to pick him up every afternoon, and where I was going to wait for him, it was near a pub. So, I would go into the pub to buy a pint of coke or anything. Three times after coming out of the pub, one kilometre ahead, they stop me, because they thought I was drinking in the pub. So, there is a practice in the UK. Near all the pubs, and particularly on Fridays and Sundays, you have those Police

controls for drink and drive. I think this is what we have to multiply. I know that we have got checks near Bagatelle, at Grand' Baie, at Flic-en-Flac, but we need to multiply, because we do not have accidents only in these places.

So, Madam Speaker, surveillance for alcohol is difficult, we have changed the laws, we have amended the law, it is going to scare those people, but very difficult to catch them. And again, what I think we need to do is the awareness campaign. We have to use the radio and the television to tell people: 'Look, do not drink and drive, there will be heavy penalties when you are caught'. So, what we need here is to have Police Force multiplied in all the areas of the country so that we can effectively prevent drink and drive.

Now, the other thing is dangerous driving, careless driving. This is a major cause of accident, Madam Speaker. It is very hard to detect because they drive in a place where there are no policemen. How would you catch these people? The solution is the 4,000 cameras which will come sometime afterwards, that is going to help to catch those people who are driving carelessly because they will be caught on camera and they will have their ticket at home the next day.

Madam Speaker, the issue of drug has already been raised by the previous orators. So, I am not going to take this issue, but it is a major issue these days that we need to do something for those who drive under the influence of drugs. Now, statistics are showing that more and more accidents are being caused by drivers who are using their mobile phones while driving. This is in the UK. Even in Mauritius, you will see, if you go for statistics, many drivers meet with an accident because they are on the phone and persistently; everyday we see people on the phone. And some of us also, we are using our phone while we are driving. But what is the solution here?

I have been chased by a policeman in Vacoas because he saw me with a phone. I said: 'Look, you go and check. I did not use my phone'. So, there is some sort of verification. He tested my phone and said there were no previous calls. He said 'I saw you with the phone on your hand'. So, how do you prove somebody is using his mobile phone?

Now, there is something new coming, Madam Speaker. This is in action since 01 July in Australia and this is called the One Task System. For those who are using mobile phones while driving, the One Task System will catch them. So, there won't be anyone who will escape while driving and using the phone. This is a camera. It is just like a fixed camera, they

will take your photos even if you are with whatever, tinted windows, they will catch you inside with the phone. And this is now being used in Australia, being tested in the UK and probably my good friend, the Minister of Public Infrastructure, may think about it and see if we can bring this technology in Mauritius also so that we can prevent people from dying, I would say, from road accidents and those who are using mobile phone while driving.

Here you are, Madam Speaker. This is my submission. I do not have a lot to say about this. I am particularly very happy that the amendments are now in this House and probably in a week's time or two weeks' time it will be enforced. And I would request my good friend, the hon. Minister, to publicise what we are doing and in some sort, we scare those people that they have to be cautious. I will make an appeal to the drivers, Madam Speaker. It can be me, it can be you, it can be anyone. *Les malheurs n'arrivent qu'aux autres seulement*. This is what we all think, but it is not true. It is coming to us if we do not take the precaution that we need to. I thank you, Madam Speaker.

Madam Speaker: Hon. Baloomoody!

(6.17 p.m.)

Mr V. Baloomoody (Third Member for GRNW & Port Louis West): Thank you, Madam Speaker. Madam Speaker, this Bill is concerned with road safety. Road safety, Madam Speaker, is about risks that are generated by the traffic itself. Fatal accidents are caused by various factors: drivers' behaviour, for example, excessive speed; drink-driving and now we have the most serious one, drug-driving; inappropriate infrastructure, this is a serious cause of accident as well, for example, lack of facilities for pedestrian, where there is no pavement; lack of pedestrian crossing; no proper signs and no proper road markings. These are issues which very often cause fatal accidents as well. Lack of appropriate lightings, and also when both road users, including pedestrians and drivers are distracted by using mobile phones, wearing headsets and earphones, especially when it comes to pedestrians.

Madam Speaker, according to the WHO Global Status Report on Road Safety 2015, road traffic injuries are currently estimated to be the ninth leading cause of death across all age groups globally and are predicted to become the seventh leading cause of death by 2030.

Further, Madam Speaker, road traffic injuries place a heavy burden both on the national economy as well on households and in many cases, it contributes to poverty, especially when the bread winner of the family is a victim of a fatal, serious road accident.

But, Madam Speaker, this is the fourth amendment this Government, with this Minister, is bringing to the Road Traffic Act. The first one was in 2015, a few months after the general elections. And the first one, we must say - I do not want to do politics - was a political decision. In fact, the hon. Minister, while introducing the Bill himself, said that they are coming with this Bill to do away with speed camera which was off for months just because it was promised to the electorates. Without any research, without any evidence whether speeding camera was contributing to fatal accidents or reducing fatal accidents, just because it was a popular decision announced during the electoral campaign, just a few months after, this Minister, the Government came with a Bill to do away with the speed camera. And he was proud to inform the House and I quote –

“In fact, the list of 19 serious road traffic offences contained in the third schedule in the Act is being reviewed and will be brought down to 11 serious offences which will be easy to understand and be memorised by road users”

And today, three and a half years after, what are we doing? We are coming with a new law to make the law harsher, tougher - I am not saying it is wrong, but this is what we are doing - than what it was under the previous regime. So, we are going in a sort of a trial and error, change the law without any evidence to support why we are taking these decisions. Any study done! Again, with this amendment, in fact, in the 2016 amendment as well, the Government realised in 2016 that by removing the speed cameras, they took a wrong decision. So, they came back again with speed camera and tougher penalties this time, and I quote –

“When you look at the crime statistics for the year 2015, it is important to note, this is what the statistics said, I quote –

Road Traffic contraventions decreased by 8% from 224, 855 in 2014 to 206, 835 in 2015 mainly due to exceeding speed limit which decreased from 96,872 to 35,395.”

It is to be noted that the figure for 2015 is not strictly comparable to that of 2014, mainly due to the fact that speed cameras were inactive from 10 January 2015 to 05 September 2015. Already building a culture to our drivers triggering the wrong signal, telling them: ‘Now, you can speed.’ No speed camera for nearly nine months. It is only now in his speech, last week, that the hon. Minister had to admit. Three and a half years later, I quote –

“In Mauritius, presently we have 62 speed cameras around the island and with their positioning in accident prone areas and the proportionate increase in fines in relation to speeding, it is expected, Mr Deputy Speaker, Sir, that the number of killed and seriously injured victims in relation to speeding would drastically reduce.”

The Government removed all the cameras. Three and a half years after, now the Minister realised that we have 62 cameras and this will drastically reduce victims and fatal accidents. So, there is no long-term plan by this Government. Four amendments and the last time in 2016, when we reintroduced the penalty points, it was for six offences, it was changed to 5. Now, it is going back to 5 consecutive offences.

So, we are playing with figures. We are playing with numbers. We are playing with the quantum of the fines. Is that really a serious study being done? Although we have expensive advisers from foreign countries, but we do not have a serious work done with regard to our road, the road infrastructure, the road traffic, the way we give licence, the way we give the licence to motorcycle riders. Now, the *auto-écoles* before it starts operational, we are hearing about *scandales*. Matters have been reported to ICAC. There is, I do not know what. So, there is a real problem. Same Minister! Three and a half years ago! Three and a half years in power! We are still trying to find solutions for such a serious issue and, in the meantime, people are dying, families are losing their close ones, people are being handicapped.

I have listened carefully to the hon. Minister with regard to the drink and drive in the Bill. One would have expected him to come forward with empirical evidence, studies done. Three and half years there have been so many fatal accidents. Majority of them involved young people and drinks and drugs. One would have expected him to come and give us figures. Tell us why we are choosing the 20 milligrams level of alcohol instead of hiding behind the FSL. Tell us the evidence that has been gathered during the last three and a half years because the tests are done on victims at the hospitals following fatal accidents to know the level of drugs and the level of alcohol. Come and tell us.

I have asked a question this morning, unfortunately, it has not been reached. Perhaps the hon. Minister can take it from the Minister of Health and Quality of Life and inform us in his summing-up how many accidents there have been in the last three and a half years where the level of alcohol was between 20 to 30. Because 51 is positive, 86 is positive, 100 is

positive and 120 is positive. Do not tell us there has been 80% positive and 20% negative because we are changing the quantum from 50 to 20. Do not tell us because the FSL does not have equipment that we have to go to 20. It must be evidence based, and we have been left without any answer. How many serious fatal accidents over and above the prescribed limit and by how much?

In most of the cases, I have seen in Court, it is over 80 to 90, but tell us how many from 20 to 50. At least, we have the book, which hon. Bérenger referred to, of Barlen Munusami. We have tried. Even the statistics do not tell us the figures. We have tried to find out why. Have there been tests on certain people to find out their way of driving, giving them 20 milligrams, giving them 30 milligrams and see what reaction this has on their driving? We have an expert. We could have done a sort of empirical test to find out. I saw hon. Minister Bodha make a smile - a bit sarcastic - when hon. Bérenger was referring to the gentleman, Mr Barlen Munusami. This gentleman has been in the Police Force since 1989. He has been in that Department. He has a degree in Transport Management. He has a degree from Portsmouth University in Police Studies and he has been at the Road Traffic for so many years. He has written a book. Now, in his book, he has conducted certain tests and he has come to the conclusion that between 30 and 50, it is at this stage that you affect the driving, that the beginning phase, no noticeable problems, but, especially reduced visual range, disturbed movements, poor appropriation of distance, etc.

Now, we have seen in many countries what is the level of drug allowed. The hon. Minister made reference to Europe. Good example! But in Europe, only four countries have either zero or 0.2, that is, 20 milligrams. The majority have five and it is 50 milligrams, but they make a difference between drivers and novice drivers. When we look at our statistics and the number of youths who are involved in fatal accidents, perhaps this should have been a beginning for the youth, have two levels of alcohol, a lesser for the novice drivers. In most of the countries, they have for novice drivers where it is 50; for normal commercial drivers, it is 0.2, that is, 20 for novice drivers.

When we look at the statistics, 33 victims only up to 11 January and we should add two, the recent one in the North, who passed away, the two young boys. *33 victimes âgés de 16 à 25 ans, 27 entre 26 à 50 ans*. So, youngsters are quite involved in the accidents. Probably, we should have come to a two phase: one for mature drivers and one for novice

drivers, and also the same level for novice drivers, for commercial drivers, those who drive public vehicles carrying passengers, etc.

Now, let me come to an amendment with two sections of the Road Traffic Act which, unfortunately, this law does not deal with. In fact, I am referring especially to these two sections following the decision of a Court to sentence one driver who has been under the influence of alcohol, high level of alcohol, who killed one person, handicapped for life another one and seriously injured two persons, was sentenced one month of imprisonment and Rs175,000 fine.

So, when I read that - many people were shocked -, I thought that the Magistrate was wrong in law. In fact, she is not wrong in law. The law is wrong. When you look at the charge of causing death by careless driving under influence of intoxicating drink or drugs, the offence is Rs50,000 and a term of imprisonment not exceeding five years. But there is a caveat in this. We say that section 153 of the Criminal Procedure Act will not apply. What does section 153 tell us?

“Where under any enactment a Court sentences a person for an offence for which the penalty of a fine is provided - like in this case -, the Court may, unless the enactment otherwise provides, inflict a fine less than the minimum fixed by the enactment.”

So, with regard to the fine, he can give less than what that law says. But with regard to custody, section 152 of the Criminal Procedure Act deals with imprisonment -

“Where under any enactment a Court sentences a person for an offence for which the penalty of imprisonment is provided, the Court may inflict imprisonment, for a period less than the minimum (...)”

So, section 152 applies; it is not limited, is not restricted. The Magistrate - because section 153 speaks about fine - gives the minimum fine which the law requires, but she has a free hand when it comes to the imprisonment, and this is why she gave one month imprisonment. And when you compare that with the next offence, driving or being in charge of a motor vehicle while under influence of intoxicating drinks or drugs, 123E, here there is no death. You are only driving and you are found to be under drink of alcohol or drug. And here both sections apply.

The Magistrate has no discretion with regard to fines and no discretion with regard to custody, which means that if one is under the influence of alcohol and death is occurred, the learned Magistrate has to apply the minimum as per the Act only when it comes to fine and not to custody. But if you drive under alcohol and there is no death, then she has to abide. She cannot apply the minimum; she has no discretion with regard to the minimum, both to fine and custody. So, there is a problem. I am proposing that we come with an amendment. It is not a difficult amendment. Just amend section 123D of the Road Traffic Act and add one phrase before 123, section 152.

So, it retreats section 152 and section 153 and Part VI of the Criminal Procedure Act, provisions of offences legislation, etc., will not apply. Because we are passing a law, we are debating a law here, but it has to be put into practice. And under the same heading, I will come to certain offences which I feel are dangerous offences, where section 153 should not apply. I am speaking here of offence No. 31, which deals with -

“Driving a motor vehicle in such a position that the driver is unable to have proper control of the vehicle (...)”

Rally, *zigzaguer*, etc. This is dangerous driving and the fine is Rs2,000. We have to make sure that the court imposes the fine of Rs2,000 and not through the discretion of section 153, give Rs200 or Rs300 because this is dangerous driving. Many accidents are caused by such act. We are talking about section 52. Do you know how many people are injured and some are even killed on the cross-here?

“Failing to allow free and uninterrupted passage to a pedestrian using a crossing”

This is a serious offence, and we have increased the fine to Rs1,500. I am not happy with that level of fine for such a serious offence, when we now how disrespect some drivers do have when it comes to pedestrian crossing, and here again, we should make sure that section 153 does not apply, that the minimum -what the law says - should be upheld by the Court. Offence No. 65 -

“Failing to comply with traffic sign and traffic direction (...)”

You go into a ‘No Entry’, you just go in a one way road, that’s dangerous driving, and here again, the fine is Rs2,000. I think section 153 should not apply because they are considered to be dangerous driving. Now, at the same time when I am talking about certain offences where

we have to increase the fine because they deal with dangerous driving, there are some increases which are, in certain circumstances, high, especially when it comes to motor riders, if you have a basket on your *guidon*, Rs1,000 fine. Anyway, it is in the Bill, the court here at least can use its discretion.

Now, the issue of helmet is a serious issue. It is an offence if you do not wear a helmet 'according to prescribed (...)'. My information is that the quality, the size of a helmet has never been prescribed - the specification, the material. In most countries, there are international standards for helmet - not by a country, but by the UN. But this does not prevent each country to have its own standard. For example, in Kenya, the Kenyan Road Traffic Act requires motorcyclists and their passengers to wear helmet approved by the Kenyan Board of Standards. So, here, in Mauritius, we have all sorts of helmets, and we do not have a special helmet, especially for children.

How many times we find children wearing adult helmets? I see that every day. As long as they have something on their head, like one Police Officer told me, the law here, as it is, even if *ou met ene cuvette lor ou la tête si li pou kapav dekrir li kuma ene helmet*. Because we do not have definition. Pillion riders when it comes to children. We recently had an unfortunate accident in Brabant Street, very sad one; a young girl lost her life. Do we have any control at what age limit we can carry a child? In Australia, the minimum age is 8 years old. Can't we do a study and find out? We do not have to go 8. And then, what protective equipment there should be for the children? I see it is an offence if there is no footrest for pillion rider, but a footrest for an adult and a footrest for a child is not the same. Are we making provision for the security of the children? Commercial drivers, I have just mentioned, we should make the difference between private drivers and commercial drivers. And when I talk of commercial drivers, we should have a means.

Now, we know that there is GPS in many of the commercial vehicles today. The owner or the *patron* is more concerned about where his vehicle is; whether it is being used for eight hours or not or whether it is parked at the seaside. But that same GPS can be used to control the hours of work of the driver, especially in heavy vehicles, in buses. In private buses, I know of cases where drivers have come to me, they are pressurised to do more than eight hours, especially in the morning they are tired, bread delivery, people in the morning. They finish their work late. They have to go back early in the morning, drive the van and distribute bread everywhere. Any control on this? There are means and ways to control the

hours of work of a driver in commercial businesses. So, we expect the hon. Minister to come about these issues.

Now, let me come to drugs briefly because hon. Bérenger has been very clear. According to the WHO, a total of 159 countries around the world have national legislation prohibiting drug driving, but most of these laws do not clearly defined what is considered to be drugs, and we are one here in Mauritius. Our law! Drug is included in our Road Traffic Act. It talks about drugs and drinks, but, unfortunately, it is not defined. The ‘drug’ is defined as, I quote –

“‘drug’ means any substance which, when consumed, inhaled, applied to or injected within a person’s body, may influence the performance of a person to safely drive, and which includes, but is not limited to, an intoxicating drink.”

So, there is no definition. And it is not difficult. We just have to redefine drugs as they have done in other countries. In UK, for example, they have a list of the number of drugs and what should be the limit; prescribed drugs, illegal drugs, drug by prescription from doctor. So, all these, we could have looked into the matter. And we were expecting the more so that we know as an evidence, as a fact that most of the fatal accidents, especially concerning the young, when the toxicology test is done, it reveals the presence of drugs.

According to my information, the last accident we had was at Mapou, *l’hôpital du Nord*, the test carried out there revealed the presence of drugs. So, it should not be difficult. To amend the law, we do not have to do much. It is just a question of definition, have a new Schedule about the definition of the ‘drugs’ and the limits which are allowed, the threshold, and come with the equipment. But what is more important, Madam Speaker; we have the law. We pass the law. Okay, we make the law in such a way that the Judiciary will have to apply the law. But like my learned friend, my colleague, hon. Fowdar just said: are our Police equipped to catch these people? Most probably, changes to road users will ever happen when road safety legislation is supported by strong and sustained enforcement, and where the public is made aware of the reasons behind the new law and the consequences of non-compliance.

Madam Speaker, poor enforcement of traffic laws and regulations can also result from inadequate resources. And we have had several complaints from the Police. I, myself, have raised this issue many times here in the House about equipment to be given to the Police

Officers. Are you aware, Madam Speaker - hon. Fowdar just mentioned we can't catch them, he is right - we have only two caravans? For the whole island, there are only two caravans for drink and drive testing. And we know where they are placed every Sunday. Every Friday we know one is at Flic en Flac and one in the North, at Grand' Baie. And do you expect us to go this way on a Friday night, those who have taken the drink? No, they will not!

So, we have to give them the equipment. There are kits available now. Give the Police Officers the equipment so that they can do the proper testing. Buy more caravans instead of giving luxurious vehicles to the top Police Officers. Buy caravans! Give them tools!

Now, there is one issue, I raise it because one senior Police Officer talked to me about it. With the high level of increase in the fines and the consequences thereof, there is the concern that the level of corruption will increase in the enforcement agency. And, here, a step has to be taken. I am happy that the Rt. hon. Minister Mentor is here. We have to talk to those responsible in the Police. In many countries where they have lower, especially in developing countries, be it in Africa or in the Asian countries, corruption level has increased when the sentence is higher. The temptation to offer a bribe is higher, the higher the penalty is. And the temptation to accept is higher when the sum offered is higher.

So, we have to look into the matter. We have to look into the issue of corruption. I am not saying that all the Police Officers will be corrupt, but we have to have a watchdog. One way of doing this, is to arrest or to get people to be checked in team, not one or two Police officers. Have a superior officer and three or four, when you stop a car for drink and drive or for any testing, have them in team, not one or two only.

Madam Speaker, in his speech on this Bill, the hon. Minister made reference to the absence of driving culture on our roads. I totally agree. But what are we doing to cure this? We amend the law. We see when somebody's licence is cancelled; he has to go for training. My information is that the training is a formality. And many people if do not even attend and they get through. This is my information. You know I don't say things lightly when I say. You can go and check my information. And this is what happened. They go and spend a few hours at the centre. They come and have their test. That's it!

I regret that the hon. Minister of Education is not participating in that important Bill because all starts at the level of education, of our schools. Because, unfortunately, Madam Speaker, tightening the law is not enough and research has shown that if there is one offence

which any offender sees as acceptable to break, it is the offence of road traffic. *Sa pena problem ça, nou rentre ladans!* So, we have to educate our youth. This, Madam Speaker, requires a comprehensive road safety plan which learners can champion and pass on among their peers and families to make a difference in the society and lives of each one of us as road-users. So, it should be top on our agenda at primary and secondary schools. There should be a specific subject on road safety, how to use the road as a pedestrian, as a cyclist and as a driver. We have to look into that.

To conclude, Madam Speaker, let me use one phrase which Mr Barlen Munusami, in his preface, says –

“A positive attitude and the respect of traffic rules are the basis for a change in behaviour of road users. We could thus save lives as well as a lot of physical and emotional miseries.”

I have done, Madam Speaker. Thank you.

Madam Speaker: Hon. Boissézon!

(6.54 p.m.)

The Minister of Civil Service and Administrative Reforms (Mr E. Boissézon): Madame la présidente, la sécurité routière est une préoccupation mondiale, plus d'un milliard de morts par an est la cause principale de décès des jeunes de 15 à 19 ans.

En septembre 2015, le chef d'état, réuni à l'occasion de l'assemblée générale des Nations Unies, ont adopté le programme de développement durable à l'horizon 2030. Les 17 objectifs, le troisième relatif à la santé, fait état de permettre à tous de vivre une bonne santé et à promouvoir le bien-être de tous, à tout âge, et la cible 3.6 stipule : d'ici 2020 diminuer la moitié à l'échelle mondiale le nombre de décès et des blessures dues aux accidents de la route.

A Maurice, en mai 2015, le ministère des infrastructures publiques et du transport avait déjà présenté les amendements au *Road Traffic Act* qui avait fait l'unanimité dans la Chambre avec des objectifs. Changer l'attitude des conducteurs et réduire considérablement le nombre de tués et de blessés graves d'ici 2020. Pour atteindre ces objectifs, cinq mesures furent préconisées : remplacer le système de point de pénalité qui était une grave injustice

infligée aux utilisateurs de la route, qui était plutôt une tirelire pour le gouvernement plutôt que de réduire le nombre d'accidents. Deuxièmement, l'introduction d'une échelle graduée des amendes pour les chauffeurs dépassant les limites de vitesse. Troisièmement, la disqualification des personnes reconnues coupable de plus de cinq infractions graves de conduite. Quatrièmement, l'annulation des permis de conduire pour ceux qui ont été disqualifiés une seconde fois et l'introduction d'un cours de réhabilitation pour les récidivistes de la circulation.

Aujourd'hui, je félicite le ministre des infrastructures publiques et du transport pour la présentation de ce projet de loi qui arrive contrairement à ce qui a été dit avant au bon moment vu le nombre d'accidents fatals que connaît le pays en ce moment.

J'ai avec moi, je cite un quotidien, 'Le Mauricien' du 18 juillet 2018, mercredi dernier, et déjà le journal parlait comme gros titre '12 victimes de plus que l'année dernière sur les routes depuis janvier.' Aujourd'hui, si mon calcul est bon, malheureusement, nous avons déjà plus de 13 victimes de plus, nous avons cette année-ci des personnes ayant perdu la vie sur nos routes qui s'élèvent à 95, soit 12 de plus par rapport à la même période l'année dernière. Alors que le nombre d'accidents fatals connaît également une hausse de 9%, soit 85 contre 78 en 2017, d'après les chiffres de la *Traffic Branch*, ce sont les motocyclistes qui sont les plus vulnérables avec 36 morts contre 25 à pareille époque l'année dernière. Les catégories de victimes pour 2018 jusqu'à hier, et qui a augmenté malheureusement, sont comme suit: 36 motocyclistes, 23 piétons, 12 conducteurs, 12 passagers, neuf passagers en croupe, deux cyclistes et un aide chauffeur. En ce qui concerne les groupes d'âge, ce sont les 16-25 ans qui ont connu le plus grand nombre de décès jusqu'à présent avec un chiffre de 33 morts, suivi de 26-50 ans avec 28 décès.

Madame la présidente, aujourd'hui, avec un constat aussi accablant, nous ne pouvons pas venir dire qu'il est trop tard d'avoir pris une telle décision. Cette loi arrive au moment opportun, et je suis sûr, je n'arrive pas à me retrouver, mais je me rappelle que lors de la présentation des amendements précédemment, nous savions que notre tâche est ardue et que nous ne pouvions pas dire que nous avons la baguette magique pour pouvoir atténuer le nombre de décès dus aux accidents de la route dans le pays.

Madame la présidente, je pense que le ministre des infrastructures publiques et du transport a cerné le vrai problème. Il a raison de dire qu'il y a une absence de culture de conduite sur nos routes. Prenons le cas des chauffeurs

qui roulent au-delà - et ça a été dit précédemment - de la limite autorisée sur l'autoroute mais qui ralentissent brutalement juste devant l'objectif de la camera. Ces chauffeurs qui donnent l'impression de slalomer sur l'autoroute doublant à gauche et à droite, et ne se fiant pas de ce qui peut arriver derrière leurs voitures. Ces chauffeurs qui utilisent des appareils de musiques avec des hautparleurs, un chahut qui gêne les autres conducteurs sur les routes. Ces motocyclettes – ça a été dit précédemment - avec des pots d'échappement trafiqués, le manque de courtoisie, point très important. Certaines personnes jettent des objets sur l'autoroute, ceux qui utilisent la voie rapide sur l'autoroute comme-ci c'était une route simple. Oui, le ministre avait raison et pour créer cette culture, nous ne pouvons pas passer par quatre chemins, il faut des actions immédiates contre les cas d'indisciplines et des mesures dissuasives pour contraindre les utilisateurs a une prise de conscience et de responsabilisation.

Malheureusement, bien souvent, il faudra que je me répète ou être répétitif, comme cela a été dit précédemment, les mesures et les changements les plus positifs interviennent quand les lois sont amendées afin de rendre plus sévère, ne laissant aucune latitude aux infractions. Ceci accompagné bien sûr des mesures durables de lutte contre les infractions. Nous ne pouvons plus nous contenter d'opération *crackdown*, nous devons avoir une vigilance permanente. Certaines personnes sont sceptiques que le renforcement des lois amène une réduction du nombre d'accidents.

Dans son rapport sur la sécurité routière dans le monde, l'Organisation Mondiale de la Santé cite que de nombreux pays doivent renforcer leur législation en matière de sécurité et il a été prouvé que les pays qui ont renforcés leur législation ont vu une baisse dans les accidents de la route et dans les décès sur la route. Elle cite particulièrement les lois visant les simples facteurs de risques principaux: la vitesse, la conduite en état d'ivresse ou sous l'influence de stupéfiants, l'utilisation de casques pour les motocyclistes, de ceintures de sécurité.

Madame la présidente, concernant la vitesse, l'introduction des peines plus sévères pour tout excès de vitesse aura un effet positif quant à la diminution des accidents fatals sur nos routes. Il est clairement démontré qu'une relation de cause à effet existe entre la réduction de la vitesse et la réduction des décès sur la route. Nous devons noter l'entrée en vigueur depuis le 01 juillet 2018 que la limitation de vitesse maximale autorisée à 80km/h sur les routes à double sens, sans séparateurs centraux, en France. Même si cela n'a pas plu à

certain, cette loi est vigueur. Nous devons avoir une pensée pour les personnes vulnérables, comme les enfants et les vieilles personnes dont la vue faiblit. Ils ont du mal à évaluer la distance parcourue par un véhicule roulant à vive allure. Pas plus tard que la semaine dernière, nous avons appris le décès d'un retraité qui traversait la rue. Je ne ferai pas de commentaire car une enquête est en cours.

D'autre part, certaines personnes de mauvaise foi prédisent que l'augmentation des peines est une manne pour les policiers car les contrevenants vont préférer donner un pot-de-vin que de s'acquitter de l'amende prescrite. De telles pensées ne devraient même pas effleurer nos pensées de patriotes. Nous devons faire confiance à la crédibilité de notre force policière et surtout à la responsabilisation de nos concitoyens. Mais, si demain quelqu'un est attiré par le gain facile, qu'il soit averti que le jour où il sera pris, la sanction sera très sévère.

Madame la présidente, j'avais dit précédemment que l'alcool au volant est une des causes d'accidents et de décès sur la route. A Maurice, pour beaucoup de personnes, nous avons une mauvaise perception de l'alcool. Nous considérons l'alcool comme un agent social. Les personnes pensent qu'il est difficile de s'amuser sans la consommation d'alcool. Oui, nous pourrions consommer de l'alcool avec modération, nous devons adopter une culture de *either drink or drive*. A ce sujet, certains orateurs précédemment contestent ou demandent de revoir le chiffre que nous proposons, considérant que les 20 milligrammes par 100 ml de sang est trop juste et que nous devrions augmenter cela.

Le rapport mondial de la santé fait état des conducteurs et l'orateur précédent a cité le cas de novice. Si nous voulons penser aux dames, aux hommes, avoir un chiffre plus haut que les 20%, nous devons avoir une pensée pour les jeunes. Il sera très difficile d'avoir un chiffre pour les jeunes, un chiffre pour les commerciaux quand le commercial sera commercial et homme public. Il faut faire un choix. Aujourd'hui, si nous voulons qu'il n'y ait pas d'alcool au volant, nous devons accepter ce chiffre de 20 milligrammes pour 100 ml de sang. Et je suis partant pour ce chiffre car c'est vrai qu'on a parlé d'Europe, qu'on a parlé de certains chiffres que nous avons de l'Europe. Mais les personnes qui demandent qu'on augmente ce chiffre de 20 milligrammes, ont-ils pensé à l'état de nos routes ?

Nous parlons d'Europe. L'Europe est économiquement supérieure dont l'état des routes sont meilleurs que les nôtres et nous nous efforçons tous les jours, il ne faut pas dire que nous sommes derrière, mais nous nous efforçons tous les jours d'avoir des routes aux normes internationales. Si nous prenions en considération l'état de nos routes, je crois que

nous tous nous accepterons que nous ne pouvons pas avoir de l'alcool au volant en ce jour, car il faut prendre en considération de l'impact de l'alcool sur le corps. Le champ visuel rétrécit, que ce soit dès que vous prenez la première gorgée d'alcool, le champ visuel rétrécit, la sensibilité à la lumière augmente, la notion de la distance et de la largeur s'altère. Prenons en considération ces trois points et la largeur de certaines de nos routes à l'île Maurice. Pensez que si vous avez deux personnes qui se croisent en voiture, chacun avec 30 milligrammes pour 100 ml de sang, cela vous fait un croisement de 60 milligrammes par 100 ml.

Les réflexes ralentissent et l'effet euphorisant provoque un état de grande confiance, ce qui sans compter l'agressivité. Nous voyons bien souvent des gens, des conducteurs qui, dans la vie normale, sont des gens gentils, très disciplinés mais une fois après avoir consommé de l'alcool, ce sont des personnes, des bêtes qu'on n'arrive pas à contrôler. Et nous allons plus loin, quand quelqu'un a bu au-delà de tous ces mots, s'ajoute ce remords d'avoir porté atteinte à l'intégrité physique d'une personne innocente et à sa famille.

Chaque mort, chaque handicapé à vie est un martyr pour sa famille, pour sa communauté, pour son pays, sachant combien le pays dépense à cause des accidents de la route dus à des chauffeurs en état d'ébriété. Et je pense aujourd'hui que cette tolérance zéro préconisée par le ministre des Infrastructures publiques doit être comprise. Ce n'est pas zéro mathématique, c'est un principe. Prendre le volant, zéro alcool dans le corps. Je sais que certains slogans de sensibilisation choquent, comme cet enfant qui pleure recherchant son papa et sa maman. Les gens étaient choqués, et il faut que les automobilistes soient choqués par la sévérité des peines pour toute conduite en état d'ébriété.

Madame la présidente, je parlerai aussi de la clause 12 de ce projet de loi, section 123AG, *cumulative road traffic accident*, car précédemment nous avions le fameux *driving licence counterpart*. Certaines personnes vous disent aujourd'hui que les chauffeurs qui payent des amendes ne réalisent pas la portée du *cumulative road traffic offences*. Si je me réfère à la loi qui existait en 2014, je me demande si, avec les amendements que nous avons aujourd'hui, la loi n'est pas plus répressive. Elle est plus répressive que la loi de 2014. Je sais qu'il y a eu des propositions qui sont venues des bancs de l'opposition, que nous allons étudier, mais les gens vous disent, qu'à l'époque, le fait d'aller en cour, le fait d'avoir son *driving licence cumulative part* estampillé par le caissier la cour, les chauffeurs prenaient conscience du fait qu'ils étaient pénalisés et que d'autres pénalisations amèneraient la révocation de leur licence.

Je suis content aujourd'hui que ce projet de loi, sous la section 8A(a), sur la troisième peine pendant une période de 24 mois, tout contrevenant va recevoir un *Cumulative Road Traffic Convictions Notice*, et cela donnera aux chauffeurs la possibilité de réfléchir. Mais il faut noter aussi qu'il y a la clause 8(b) qui vient dire, pour éviter que les gens utilisent toutes sortes de prétextes et dire qu'ils n'ont pas reçu le *Cumulative Road Traffic Convictions Notice*, que '*failure to comply with paragraph (a) shall not be a bar for the licensing officer to make an application under subsection 7(a)*'. Cela veut dire que toute personne, malgré le fait qu'il ait eu trois amendes, ce sera aussi le devoir du conducteur de s'assurer qu'il a reçu le document nécessaire, car ce ne sera pas une excuse que de venir dire qu'il n'a pas reçu le document concerné.

Pour terminer, Madame la présidente, je parlerai de la clause 14, *section 143A of principal Act amended - liability of occupants for offences*. Vous savez, étant ministre de la Fonction publique, l'année dernière, le secrétaire exécutif avait émis une lettre pour prévenir les employés de la Fonction publique de l'illégalité de voyager dans des véhicules qui ne sont pas des véhicules utilitaires publics, et cela avait fait un tollé, parce que les employés prétendaient qu'ils avaient le droit d'utiliser ces véhicules, arguant qu'il y avait un problème de capacité de véhicules utilitaires publics sur le chemin. Je profite de ce soir pour dire au personnel de la fonction civile et publique que si nous voulons aider les personnes qui utilisent ces véhicules illicites, ils ne le font pas pour le bien du pays. Nous sommes à la veille d'un changement historique dans le mode de transport, et on ne pourra pas accepter aujourd'hui d'utiliser ces fameux 'taxis marrons', ces fameux *vans contract* et, plus encore, il y va même premièrement de la sécurité de ces passagers. Malheureusement, un accident peut arriver n'importe quand. Le jour qu'un accident arrivera, ils ne seront pas assurés.

Alors, je profite aujourd'hui pour demander au personnel de la Fonction publique de revoir le mode de transport qu'ils utilisent, ces fameuses voitures 'marrons'.

Merci, Madame la présidente.

Madam Speaker: Hon. Lepoigneur!

(7.19 p.m.)

Mr G. Lepoigneur (Fifth Member for Beau Bassin & Petite Rivière): Madame la présidente, ces amendements de ce projet de loi viennent durcir la loi, mais est-ce suffisant pour réduire le nombre d'accidents ?

Madame la présidente, depuis 2015, le taux de fatalité routière ne cesse de croître. De 2013 à 2014, il y avait une baisse au taux d'accidents, qui est sorti de 12,8% pour passer à 11,2%. Cette baisse était due au permis à points qui, malgré quelques lacunes, avait quand même un résultat positif à la baisse du taux de fatalité. A la fin de 2014, le taux était de 11,2% et, à la fin de 2017, il est repassé à 12,8%. Tout indique une progression inquiétante pour cette année. Les pénalités sévères devraient décourager les comportements à risque. Par exemple, toutes les cinq minutes, un chauffeur est verbalisé pour excès de vitesse. Or, nous savons tous que la vitesse est au cœur même de l'accident. C'est un facteur aggravant, et la hausse pour le non-respect de limitation jusqu'au plafond de R 10,000 devrait décourager les contrevenants.

Cependant, Madame la présidente, faudrait-il encore multiplier les contrôles avec plus de caméras mobiles et fixes. Même les régions résidentielles à risque devraient être contrôlées. A ce propos, il serait souhaitable que la limitation de vitesse soit harmonisée de manière plus compréhensive. Par exemple, je peine à comprendre pourquoi la limite de vitesse est de 60 km dans un nouveau morcellement à Mon Plaisant à Roches Brunes, alors qu'elle est de 40 km sur une route principale à la rue Concorde à Roches Brunes. L'application des lois est encore plus pertinente que les lois elles-mêmes.

Madame la présidente, ne serait-il pas souhaitable de multiplier le contrôle d'alcoolémie à ce propos alors que nous déplorons une moyenne de 2,000 alcoltests positifs par an ? Il serait intéressant de connaître le nombre d'alcoltests négatifs afin d'avoir une idée sur le pourcentage de chauffeurs qui conduisent sous l'influence de l'alcool. A titre exemple, Madame la présidente, en moyenne, 2,000 alcoltests sont faits à Hong Kong par an.

Au niveau des accidents, Madame la présidente, les jeunes de 15 à 29 ans représentent 40% des victimes de la route, incluant morts et blessés graves. L'accent devrait être mis sur la sensibilisation de cette tranche de population et aussi sur la formation, de plus considérant que les motards sont les plus affectés. Il serait souhaitable d'afficher zéro tolérance sur les rallyes illégaux décriés plusieurs fois par la presse. Additionnellement, je suggère que les accessoires de protection tels que les casques et les gilets soient soumis à un contrôle de qualité sévère.

Madame la présidente, nous disposons de plus de 215,000 deux-roues motorisées à l'île Maurice. Or, ce moyen de locomotion est 25 fois plus à risque qu'un quatre-roues. Il serait souhaitable qu'une stratégie moyenne et long terme soit conçue pour décourager la

progression de leur utilisation. De plus, pourquoi ne pas rendre obligatoire l'usage des phares de tout le temps même le jour pour les deux roues ? Autres lacunes, Madame la présidente, c'est l'entretien des routes et les panneaux de signalisation devraient aussi contribuer à réduire le nombre d'imprévus.

Additionnellement, il est malheureux de constater que les glissières de sécurité sont négligées au point que l'accumulation des poussières, de boue et de moisissures y occultent leur fonction de baliser les routes. Spécialement la nuit dans les endroits mal éclairés, ces glissières sont d'une grande aide pour la visibilité et la limitation des routes. Prenons l'exemple de Beau Bassin et Coromandel où les routes sont mal éclairées, il n'y a plus de réflecteur dans les lampadaires et la balise est très sale. Les nettoyer régulièrement serait coûteux mais salutaires pour la sécurité routière.

Madame la présidente, le marquage des routes est aussi très important pour la sécurité routière. A l'île Maurice, la peinture utilisée n'est pas aux normes. Une peinture de marquage routier est constituée d'une peinture au latex de base d'eau et de silice poreuse. La silice permet à la peinture d'obtenir une viscosité suffisante pour permettre l'application d'un marquage routier. La peinture de marquage routier comprend des billes de verre rétro-réfléchissante, la peinture de marquage routier comprend outre une émulsion polymère acrylique ce qui rend la visibilité et les balisages de la route plus visibles à longue distance pendant la nuit. Malheureusement, ce n'est pas le cas à l'île Maurice. C'est bien de venir durcir les lois, mais il faudrait quand même revenir voir les infrastructures.

Au niveau des panneaux de signalisation, Madame la présidente, là encore je pense qu'il faut revoir et en rajouter d'autres. Les panneaux de signalisation, Madame la présidente, sont des éléments de sécurité essentielle. Les panneaux de signalisation sont en effet des éléments de notre quotidien qui jouent un rôle très important dans la sécurité de tout un chacun. Il permet d'informer les usagers des dangers réguliers ou ponctuels liés à une zone, mais aussi d'indiquer les règles de déplacement ou de bonne conduite pour la sécurité et le bien-être de tous.

À Maurice, beaucoup de panneaux seront installés trop près du danger averti qui mènent les conducteurs à ralentir brusquement ou même d'autres qui ne sont pas assez visibles et obstrués par les arbres. Là encore, les conducteurs pénalisés par les amendes ne sont pas assez avertis. Il existe de nombreux types de panneaux de signalisation, Madame la présidente, qui permettent aujourd'hui de s'adapter aux besoins de chaque situation en

fonction notamment de résilier à la zone en question. Le but des panneaux de signalisation est à la prévention des accidents et d'une façon plus générale, la lutte contre tout ce qui peut porter atteinte à la santé de l'homme.

En effet, il permet d'augmenter le niveau de sécurité à la sensibilisation des usagers de la route ainsi d'informer les différents usagers des éventuels dangers, contraintes liées à un environnement modifié. Sur l'autoroute, Madame la présidente, il faudrait aussi ajouter des panneaux de céder le passage aux voitures qui s'apprêtent à rejoindre l'autoroute comme c'est le cas à l'étranger qui éviterait encore pas mal d'accidents.

Parlons-en des piétons, Madame la présidente. Il faudrait sanctionner ceux qui ne sont pas disciplinés comme c'est le cas à l'étranger, ils sont verbalisés sur le champ. Et aussi former les piétons aux codes du trottoir, les règles de base sont simples, marcher sur le trottoir, emprunter les passages protégés, ne pas traverser une rue en diagonale et respecter la signalisation lumineuse. Car même c'est toujours prioritaire, le piéton doit accepter de partager l'espace avec tous les autres usagers. L'arrogance d'un piéton qui s'impose un arrêt brutal à un autobus ou une file de voitures tenues de stopper n'est évidemment qu'un manque de respect et une source de pollution, tous ces véhicules vont devoir redémarrer. Et l'on ne dira jamais assez que le respect mutuel de la courtoisie est les deux principales qualités de l'usager.

Madame la présidente, train, avion et voiture ne tourne jamais la manche. Le premier mode de déplacement humain est sans aucun doute le moins polluant. En ville, la majorité des trajets se fait à pied. D'ailleurs, plus de deux piétons sur trois sont tués en agglomération. Ils sont impliqués dans 20% des accidents corporels et représentent 16% des tués de la route. Parmi ces marcheurs victimes beaucoup sont des personnes âgées et des enfants. Nous sommes tous des piétons, Madame la présidente. Une fois qu'on a garé nos voitures, on devient piétons qui représentent environ 1 million de piétons. En comptant les touristes, ça nous ramène à 2 millions par an. Là encore, Madame la présidente, il faut encore plus de trottoirs, des passages cloutés appropriés, plus de passages de piétons souterrains dans les endroits à risques.

Madame la présidente, un autre facteur qu'il faudrait trouver de solution chez les accidents qui arrivent ou le chauffeur s'est endormi au volant et l'accident a été fatal où beaucoup d'innocents ont péri. Madame la présidente, beaucoup de ces accidents rapportés

sont dus pas parce que le conducteur était sous l'influence de l'alcool ni par défaillance du véhicule mais par la fatigue assez souvent il y a des chauffeurs qui cumulent deux jobs comme chauffeur où ils sont employés et d'autres sont engagés à temps partiel après les heures de travail avec leurs employés officiels.

Dans la majorité des accidents, on ne voit aucune trace de freinage ce qui prouve que cela a été dû à une prise de sommeil. Là encore il faudra revoir comment arrêter ce double emploi qui met la vie des passagers en danger.

Madame la présidente, avant de terminer, je voudrais parler d'un jugement lors d'un accident fatal qui a causé mort d'homme. Le 18 juillet devant la Magistrat Jaulimsing, la Cour Intermédiaire a trouvé le conducteur coupable et lui a infligé les peines suivantes –

- un mois de prison ;
- deux amendes de R 50,000 ;
- deux amendes de R 10, 000.

Voyons de quoi il était accusé et trouvé coupable, Madame la présidente. Il a balayé un groupe de cyclistes alors que ces derniers étaient dans leur chemin. En ce faisant, il a causé la mort d'un jeune homme tout juste père d'un enfant d'un mois, Monsieur Jérôme Tennant. Il a blessé un autre cycliste d'une trentaine d'années, Monsieur Colin. Il a aussi grièvement blessé un autre cycliste, Monsieur David Bathfield aujourd'hui thérapeutique et condamné à une chaise roulante pour le restant de sa vie. Le conducteur en question conduisait sous l'influence de l'alcool, il n'a même pas eu la décence de rapporter l'accident au poste de police en l'occurrence c'était un *hit and run*.

Sa voiture n'avait pas d'assurance. En France, Madame la présidente, conduire en état de d'ébriété ayant causé mort d'homme peut attirer €100,000 d'amende et sept ans d'emprisonnement. Beaucoup de personnes sont indignées par cette sentence où il y a mort d'homme et un père de famille de quatre enfants en chaise roulante. Je souhaiterais qu'il fasse appel à ce jugement, je pense que son rôle est de le faire. Pas plus tard que ce matin, un de nos quotidiens a rapporté qu'un jeune a été condamné à 18 ans de prison pour viol. Je ne suis pas en train de dire que c'est un mauvais jugement mais comparativement à l'autre, on voit que c'est une justice de deux poids et deux mesures car là aussi il a eu viol de la vie humaine.

Avant de terminer, je voudrais ajouter autre chose. On dit souvent que l'exemple vient d'en haut, par contre j'ai appris tout récemment dans un de nos quotidiens que le ministre Sesungkur a eu un accident à 6h10 ce matin et l'accident a été rapporté à 10h15

contrairement au nouvel amendement qui stipule que tout accident doit être rapporté dans un délai d'une heure. Donc, l'exemple vient d'en haut. Ce serait souhaitable que nous, dans cette assemblée, on commence à donner de bons exemples en rapportant dans les délais prescrits.

Pour terminer, Madame la présidente, je dirais pour réduire le taux de fatalité sur nos routes, c'est bien de durcir la loi en augmentant les amendes mais il faut surtout revoir nos infrastructures routières comme marquage de roue, et les panneaux adaptés aux dangers qui nous guettent comme j'ai mentionné plus haut dans mon discours.

Merci, Madame la présidente.

Madam Speaker: Hon. Jahangeer!

(7.32 p.m.)

Mr B. Jahangeer (Third Member for Rivière des Anguilles & Souillac): Thank you Madam Speaker. By introducing the Road Traffic (Amendment) Bill, this Government is showing its will to decrease road accidents and implement disciplinary driving. Therefore, I would like to congratulate the hon. Minister of Public Infrastructure for these efforts in this respect.

Madam Speaker, to move from point A to B, we need nowadays a bicycle; you can do it by a bicycle or motorcycle, a bus or in the future, the Metro. Our car density has increased, since 50 years it has doubled. This means we are prone for more road accidents. And we need more stringent measures to force the road users to drive safely and intelligently. This brings along the 204 amended penalties which are really laudable. But still, the enforcement of some of these amendments is my worry. So, I will go along with a few of them. Amendment no. 8 -

“Altering silencer of vehicle in such a way that the noise caused by the escape of the exhaust gases is made greater by the alteration (...)”

And the fine is Rs2,000. It is similar to amendment no. 181. This is long overdue. I remember the previous Minister of Environment, hon. Dayal, wanted to change the silencer of motorcycles and motorcars. But still, we have car tuning going on and young guys changing the silencers. That is why we need this enforcement. But the problem is how are we going to enforce it? Is the Police or the RDA officer equipped with a decibel meter? How he will know that this sound is above 78 dB or not? This is the big question, how you enforce it practically!

The next one will be amendment no. 21. Amendment no. 21 says -

“Carrying inflammable liquid in or on public service vehicle (...)”

How are you going to check that? Somebody bringing a bottle of fuel in a bus, how will you check that he has inflammable liquid? Are you going to have a liquid detector in the bus? Come on! And we are going to pay Rs2,000 for that. I think we have to rethink a little.

Now, amendment no.30 says -

“Driving a motor vehicle at such a speed so as to cause obstruction (...)”

This is very good! I will tell you why. We need, in this country, a fast lane and a minimum speed to drive. That is one of the main causes of accidents on the road. Because sometimes, you are driving on the fast lane and somebody is driving at 15 kms in front of you and you try to overtake, and that's it. You bump into another car. So, it is high time we bring this minimum speed.

Now, amendment no. 34 –

“Driving a motor vehicle with its front windscreen and windows having a visual transmission of light of less than 75 per cent as per regulations 18 (5) (...)”

How the policemen will know that in my car you have light coming at 75% of the light flowing? Does he have a lux meter? How will he know that, he will stop me and give me fine of Rs2,000? This has to be done when the car is imported or when it is on the road for the first time. That is when you will have to check that it has the 75% flowing of light. Otherwise, on the road, his eyes are not graduated in lux to know that you have only 75% of light coming in.

(Interruptions)

It has to go to a fitness centre!

Madam Speaker, amendment no. 48 –

“Emergency door of public service vehicle not in good working condition and not properly closed whilst in operation (...)”

If I remember well, there was, in the past a passenger coming from a school bus and died. Then, the hon. Minister introduced a measure that the emergency door should be equipped with an alarm. I hope this is in practice.

(Interruptions)

Very good!

Now, if I go to amendment no. 87 –

“Failing to extinguish main beam of light emitted by headlamp of motor vehicle (...)”

This is very controversial. When should someone switch off the main beam when he is driving, and how will you penalise him? You are driving with, as we say, *full phare*. But how the officer will stop him and tell him? If I am in a road where we have no light at all, I have to use my main beam. So you cannot penalise me if I am using my main beam on a road which has no light.

(Interruptions)

Now, amendment no.113-

“Bodywork, upholstery, fittings and accessories not in good and serviceable condition (...)”

This has to be checked at fitness centres. It cannot be on the road, a policeman stops me and says: “Your seat is not in good shape, and I fine you for Rs1,000”. It has to be done only at the fitness centres.

(Interruptions)

If we look at amendment no. 127 –

“Allowing engine to operate for more than five consecutive minutes whilst motor vehicle is stationary (...)”

How the policeman will know my timing? Five minutes I have been sitting in a corner and watching my engine for five minutes. I cannot understand how you enforced this law. I hope you will clear my mind on this one.

Now, coming to amendment no.151-

“Stopping or parking motor vehicle on a road during hours of darkness without a light (...)”

If you go in Port Louis at night in Ward 4, people don't have garage. They park their car on the street. The roads are dark. So, does it mean that you will go and fine all these people?

(Interruptions)

You cannot!

(Interruptions)

No, you said: "Parking on a road during hours of darkness." Dark hours is at night!

(Interruptions)

This is not okay!

Now, amendment no. 191 is the same as amendment no. 204.

"Using motor vehicle with front tyre retreaded more than once (...)"

This is a good one. But how in a normal day, will the policeman know that it is retreaded twice?

(Interruptions)

Yes, exactly! Does he have to...

(Interruptions)

Madam Speaker: Please!

Mr Jahangeer: All the policemen will be entitled...

Madam Speaker: Please, don't interrupt the hon. Member! Allow him to talk!

Mr Jahangeer: Amendment No. 199 –

"Using or causing or permitting to be used a diesel-driven motor vehicle emitting smoke over opacity limit of 50 per cent (...)"

This also! If you are driving on a highway, you will see a lot of cars and vans emitting smoke, but you cannot know if it is 50%. The only thing you can do is to give him a paper to go to a car fitness centre and have a check.

Now, Madam Speaker, what about the cyclists who use earphones plugged in when they are crossing the street? I think you should fine them also. You should add this one because very often people are crossing, you keep on honking, but they don't seem to listen or see what is going on. So, it is time that you put a law for the people crossing the street also; pedestrians with big earphones. In the States it is a law that if you cross the road with earphones, you will be fined.

Madam Speaker, we have examined these new penalties for careless driving which aim more discipline from the driver and the passengers of a typical vehicle. Now, we are going to comply with all your laws. Our cars are going to be in very good conditions. But what are you giving me as a road user? What you have to give me is a good road. Why? I will tell you why. The road condition, you never hear an accident, a Police case telling you: 'This accident was due to the condition of the road.' They always tell you: 'It is loss of control.' What is loss of control? Loss of control is when you brake, you cannot have control over the vehicle. Now, I have been here since 1995, I have never seen an RDA Officer or a Police Officer going - let's talk about the main street M1, M2, M3 - checking how water during a raining season where you have stagnation of water, while you have pooling of water in the road, never seen that. But, if you go from - let us take a typical example - Bagatelle to MCB you have a slope. I have this experience, I did it and that is what why I am telling you that. There is a pooling there which causes aquaplaning.

The reflex of a human when he sees a pool while driving, he wants to avoid it. When he wants avoid, he collides with the vehicle in the left or in the right. That is why it is very important, we need to see that we do not have any more potholes. You also have a tendency because you care for your car, so what you do? You just avoid. When you avoid, you do not see the car coming at the back.

So, the maintenance of the road is very important. Now, for the new road, I have not seen them using a test called deflectograph. What is it for? We need a road which is flat. In some cases, the roads are not flat nowadays itself. So, you need an equipment called deflectograph to measure the angle where it is uneven surface. When I have seen on the main road, they have done patching for asphaltting. But, this causes unbalance when you brake. It is not even, and that is why you need to do this test deflectograph test, then you will know if the surface is correct or not.

And lastly on the road, we use aggregates, but are you aware the aggregates if you take them from the south and the north, clinically they are not the same. They are not the same. Why? Then, you see what they call macadam, some are polished, some are rough. So, when you brake you need a rough surface to stop the car immediately, but if it is polished, you continue skidding in front and you hit the car in front of you. So, there are things we need to take into consideration for the new roads, especially the chemical nature of the aggregates.

Madam Speaker, we talk now about poor lighting, lighting system. For a highway we have international standard, normally it 10 lux, the illuminance is measured in lux, and how many times have your people gone out at night with a lux meter and measure the dark spot? I do not know, when they have done that. I have never seen your RDA Officers in the road. I drive 100 kilometres per day on the highway, I do not see that. So, you need to take care of this.

(Interruptions)

The lighting system, because this is human nature, if you have full light, you are awake at night. If you have poor lighting, you have a tendency what you call fatigue and you have tendency to sleep. The only thing that will wake you up is a flash from the speed camera. That is the only thing else that will wake when you are sleeping.

My last point, Madam Speaker, recycling or re-assessment of holders of driving licences. I know it is a sensitive issue of drivers above 70 years old. It is very important because our reflex is not the same as we grow old. It is how we react to a sudden car coming in front of you is not the same as when you were young. It is very different, the time you apply the brake. I have a personal experience last week, where driving in the roundabout of Phoenix, I was outer circle and a lady from the inner circle came out and bumped into me. She crossed the white line and then we went to the Police, she said: 'Oh, you know I have put my signal'. I said: 'Do you know you are not allowed to cross the line?' She said: 'I don't know, I put my signal, I showed to you that I am driving'. She is 74 years old. She does not know the rules and regulations.

So, they have to be assessed once per year above 70 years, I say one day per year, give them some re-education, that will be beneficial to all of us. Because very often, in a road accident the guy/the senior driving in front, he causes the accident, but he is driving. But, only the two guys at the back they are the ones who hit each other, because of the slowness of

the guy in front, he makes a mistake, and the two guys at the back they are the ones who hit each other.

(Interruptions)

Yes, you are right.

Madam Speaker: Hon. Rutnah!

Mr Jahangeer: So, Madam Speaker, to sum up, let me tell you, the Road Traffic (Amendment) Bill is very nice, and we welcome, we appreciate your effort, hon. Minister. But I will kindly request you to take into consideration - not only the car, the state of a driver drink or drunk or whatever - the state of the road and the amount of light you have on the road, this is very important, and the age of a driver.

Thank you, Madam Speaker.

Madam Speaker: Hon. Rampertab.

(7.49 p.m.)

Mr R. Rampertab (Second Member for Flacq & Bon Accueil): Madam Speaker, in this august Assembly today, we are debating, perhaps one of the most important Bills of this year, the Road Traffic (Amendment) Bill (No. X of 2018).

Indeed, I feel privileged to be able to contribute to our debates today. Let me, from the outset, mention that my earnest wish is that this landmark piece of legislation garners the unanimous support of both sides of the House. Let us all put party politics behind us and unite as one National Assembly to constructively debate the Bill being presented today by hon. Bodha, the Minister of Public Infrastructure and Land Transport.

Madam Speaker, road safety has never been before such a national urgency and priority. We have without a doubt reach a situation where bold and decisive measures are imperative. We can no longer afford the current rate of rising deadly accidents on our roads. We have seen since the beginning of this year recorded more than 90 deaths in 84 fatal accidents. Losing a dear one is already a devastating situation, but losing a family or friend in a deadly road accident is even more devastating as close ones are scarred for life.

In contrast, we cannot shy away from increasing numbers of non-fatal accidents. These cases are not reported normally on the news headlines, but victims of such accidents

are often left with permanent disabilities of different degrees requiring protracted, painful and costly treatments. Families are affected to the core by such life churning accidents, especially when the primary income earners have to face the loss of income or employment for long periods. The victims and their families are also unfortunately left in deep mental trauma throughout their lives.

Madam Speaker, a lot of research and surveys have been conducted locally and internationally on the issue of road safety. I wish to reiterate my thanks to the Minister of Public Infrastructure and Land Transport here for his proactive approach to effectively conduct research and statistics to help us understand the underlying causes of road traffic offences.

Madam Speaker, indeed, having myself been a driver in the UK for many year and on Mauritian roads as well lately, I have observed that the offences are mostly the same. However, the main issue in Mauritius is undoubtedly the poor driving behaviour caused by the lack of safe driving culture within our citizens.

Madam Speaker, in most of the cases, the driver bears the responsibility for the road accident. Unfortunately, for most drivers in Mauritius, safe and defensive driving is not their priority. In contrast, their driving behaviours are entrenched with most of the negative driving habits. For example, snaking in between traffic lanes is a normal driving habit in Mauritius. What about not stopping at pedestrian crossing or a traffic light, especially at night, or even using the fast lane by heavy vehicles at peak hours?

Madam Speaker, we as a Nation can no more sustain such a situation. We have to urgently reduce the number of fatal and non-fatal accidents. The road belongs to not only the vehicle driver, but also to the cyclist, motorcyclist, pedestrian, and it essential that each user of the road is clear that they have the utmost responsibility to use it safely without causing disturbances.

This piece of legislation, Madam Speaker, is undeniably the answer to the Nation's prayers for safer roads. Madam Speaker, our hon. Prime Minister and Minister of Finance demonstrated bold and decisive leadership by rising to the occasion and ensuring that the road safety measures are covered in his Budget 2018/2019. Indeed, I think he has voted about Rs25 m. just for the road safety, which is great. Indeed, on this side of the House, we are grateful for his support and leadership. The pace of his hard work is remarkable and he has been delivering on his promises to the nation.

Madam Speaker, I very much welcome the review of the Fixed Penalty Notice known as FPN, which was long overdue. It was widely known as FPN, as I said, and it was flawed. Indeed, currently, if a person is found to have committed a traffic related offence and is thus served a FPN, the person can either elect to accept the FPN or not to accept the penalty by opting to contest the FPN in Court. However, if the same person has changed his mind and opted not to go to the Court and requested for the FPN, it was not possible for him to obtain the latter. With the introduction of the amendment, Madam Speaker, even if a person opts to go to Court, a FPN will have to be served. This will now ensure that even if the person goes to the Court, the FPN will have to be paid and no amount higher than the FPN is paid. Madam Speaker, the law will work as long as it is made practically efficient and with the amendment being proposed, we will now see a better application of the FPN for individuals who have committed road traffic offences.

Madam Speaker, we have witnessed an increased number of traffic offences and I do welcome the bold initiative of our Government to reduce the disqualification threshold from six offences to five offences. The onus will now be on drivers to ensure that they drive on our roads with the utmost care, responsibility and safety. Many drivers in Mauritius demonstrate excessive confidence while driving on our roads. Once a driver obtains their licence, it does not mean that they should be driving irresponsibly on the roads. But, unfortunately, this incorrect attitude adopted by many drivers, mostly male ones, should not prevail anymore. I am sure that with this change being brought forward, drivers will ensure that they should be more careful and respectful.

Madam Speaker, our hon. Minister of Public Infrastructure and Land Transport has conducted an incredible job to increase the list of traffic offences from 141 to 204. We now have 63 more traffic offences, which have been carefully designed and proposed after detailed analysis of the driving behaviours of Mauritians over the last few years. Indeed, I welcome the extended list and will encourage the hon. Minister and his team to ensure that the list is updated if need be in the future.

Madam Speaker, the purpose of a fine is to punish a traffic offender for not following the traffic laws as well as to act as a deterrent and avoid future offences. A person, however, can either knowingly or unknowingly commit an offence. My question is whether we can be sure that the Fixed Penalty Notice does in practice act as a deterrent low risk cases? Madam Speaker, is there not a gap in the road safety knowledge of offenders? Once they do obtain

their licence, how come after a few years they forget the basic traffic rules and good driving principles?

Madam Speaker, we should be thinking about a scheme which punishes the offender through a fine, but also focuses on changing the behaviour and attitude of the offender and reduce the probability of re-offending. The fine collected can be used to subsidise a training course, which could arrange for speed awareness, correct driving attitude and behaviour or even practical courses and refreshers on the traffic laws. The Police Force should also envisage conducting an audit of all driving pools of public and private companies to pave the way for a new occupational road safety framework within the country.

Madam Speaker, most of us enjoy listening to music while driving. However, you can hear the blasting music on our roads from cars, trucks, vans, and it has been observed that a number of young drivers are modifying their vehicles by installing advanced music devices such as subwoofers and bass speakers. Some cars have become on-the-road music systems and undergone considerable internal modifications.

Madam Speaker, a recent research by IAM Roadsmart, the UK's leading road safety charity and advocate, has proven that loud music is extremely distracting for the driver as well as other surrounding drivers. For example, how can one hear a driver's car horn to signal an impending threat when one driver is playing deafening music? Traffic officers should be able to give on the spot FPN to drivers found guilty of playing extremely loud music through advanced devices while driving or even being parked. We cannot put at risk, Madam Speaker, the lives of other drivers or even the peace and tranquillity of our citizens who live close to main roads through deafening music rattling through the windows and minds. Drivers should only be able to modify their vehicles to install music devices only after getting the authorisation from the authority of the Commissioner of Police.

Madam Speaker, it was widely reported that cases of driving licence forgery had been unveiled by the Police lately. Indeed, we congratulate them for cracking down on such practices and hope that the new provisions being introduced will help them in dismantling more organised gangs or lone wolves. It is indeed, inadmissible that traffic related documents such as driving licences or even parking coupons are being forged and used by ill-intentioned individuals. Imagine, Madam Speaker, how dangerous it can be for the driver, passengers or pedestrians if the driver has been disqualified or does not possess a valid driving licence and

is using a forged one instead. We cannot put at risk the lives of our citizens through the recklessness behaviour of certain individuals.

Madam Speaker, it is with great relief that we also welcome the measure to increase the fine of a disqualified person who was found driving when suspended. The offender can be fined with a minimum of Rs50,000 to Rs100,000. However, Madam Speaker, imprisonment should also be considered for such a serious offence given the potential threats to the general public.

Madam Speaker, as pointed out earlier by the former Leader of the Opposition, hon. Paul Bérenger, there is a need to ensure that the drug-driving tests are conducted on suspected drivers, given the recent surge in such cases. My view is that, Madam Speaker, the Police Force should be adequately equipped with the best technology available on the market. For instance, in Spain, a drug-driving test kit has been developed by researchers with the collaboration of the Spanish Police Force and this test can give results in around six minutes. We are not far behind, as for instance, the UK only introduced drug-driving tests in 2015 and Scotland will be following this route next year.

I thank the hon. Minister of Public Infrastructure and Land Transport for reassuring the House that appropriate amendments will be introduced to the Dangerous Drugs Act in the near future. Once the amendments passed, I will urge the Commissioner of Police to implement the drug-driving test in the shortest delay possible with the best and most reliable equipment.

Madam Speaker, as I mentioned earlier, our roads are not only used by vehicles and motorcycles, but also by cyclists and pedestrians. It is essential that strict specific rules are brought forward to regulate how cyclists should behave and use our roads. We have seen an increasing number of cyclists who do not have the most basic set of protective gear such as a helmet. At night, more cyclists do not even wear reflective clothing, which is a great danger for the cyclist as well as other road users. It is saddening that they put their lives at risk and ignore the most basic road safety measure which is to be protected and visible.

Madam Speaker, the UK Highway Code, for example, has a very comprehensive set of rules for cyclists, which could inspire us to introduce such rules here in Mauritius. Another issue worth highlighting, Madam Speaker, is the responsibility of pedestrians as indeed they are road users as well. It is imperative that pedestrians should take extra care when using our

roads and should not through their recklessness endanger lives of other pedestrians or drivers. So often, we have got pedestrian crossing the roads through red traffic light. It is indeed very dangerous to themselves and others. What happens if such an irresponsible behaviour leads to an accident? Such pedestrians, Madam Speaker, must be fined as well. For instance, today in Australia, if you cross the roads while the light is red, you pay a \$50 fine on the spot. Madam Speaker, we have to consider these rules that are being applied abroad because I am sure it can be done in Mauritius.

Madam Speaker, to conclude, let me congratulate the hon. Minister of Public Infrastructure and Land Transport for bringing forward this piece of legislation. Indeed, the amendments will reassure the population of the firm intention to tackle the national issue of road safety with the utmost urgency. In addition, I want to applaud the hon. Minister for his brilliant performance within his Ministry. He has shown dedication, consistency, foresight and a firm mastery of the major projects within his Ministry.

The road traffic legislation would undoubtedly be called upon to be updated in the years to come, but the one presented today will definitely set solid foundation. Undeniably, with the introduction of the Safe City Project announced by the hon. Prime Minister and Minister of Finance recently, the number of road accidents would be called to fall even more. I thank the hon. Prime Minister and Minister of Finance for his vision and unflinching support in transforming our country. As I mentioned at the beginning, let us all rally behind this piece of legislation to make our country a safer and a secure one.

Thank you, Madam Speaker.

Madam Speaker: Hon. Mrs Selvon!

(8.06 p.m.)

Mrs D. Selvon (Second Member for GRNW & Port Louis West): Thank you, Madam Speaker. Madam Speaker, like the orator, hon. Rampertab, just before me has reminded us, the Road Traffic (Amendment) Bill is a very important Bill, but, unfortunately, the hon. Prime Minister is not in the House.

Madame la présidente, j'étais la première personne dans ce Parlement à proposer et cela depuis 2015 des tests de détection de drogues sur les chauffeurs en plus des tests de détection d'alcool. J'avais suggéré en premier lieu le *Standardised Field Sobriety Test*, ou

SFST pratiqué aux États-Unis et en Angleterre. Selon moi, ce test de sobriété est très important avant tout autre test et il est révélateur de l'influence à la fois d'alcool et de drogues. Qu'est-ce que le test SFST ? C'est un *road side test* visuel, rigoureux de l'aptitude d'un conducteur à poursuivre sa route au volant par le policier qui l'arrête. C'est un test de sobriété que les médecins connaissent bien. Le SFST a été validé par les plus hautes autorités scientifiques du gouvernement américain et adapté par le ministère américain du transport, aussi appelé le *Department of Transportation*. Aux États-Unis, les policiers sont rigoureusement formés à cette méthode d'observation de geste, en donner aux conducteurs interpellés par la police au bord de la route.

Ce test est une observation visuelle pouvant déterminer si le conducteur maîtrise ou non son corps, son équilibre, sur ses deux jambes, les mouvements de ses yeux. C'est un test validé par la loi et l'académie des sciences. Je dépose pour aider le ministre une copie d'un document du gouvernement américain en deux pages décrivant ce test tel que pratiqué par la police de la route aux États-Unis d'Amérique, Le document est intitulé : *'The National Highway Traffic Safety Administration Standardised Field Sobriety Testing Procedures.'*

Madam Speaker, Police stopping drivers in Mauritius have no serious training in SFST. There is an urgent need for proper SFST training for all Police Officers on traffic duties. *Entraînement rigoureux et systématique avec l'aide des médecins.* Hon. Baloomoody has proposed a good amendment for drivers who kill people when intoxicated and I also agree with hon. Bérenger for his good and positive proposals.

Ensuite, il y a une deuxième étape, soit le test du sang du conducteur en laboratoire. C'est à ce moment qu'on détermine la présence et le pourcentage de toute substance intoxicante, drogue ou alcool ou médicaments. Je dépose maintenant un document de cinq pages du gouvernement américain intitulé, je cite: *'US Department of Transportation (DOT), Office of the Secretary, Office of drug and alcohol policy and compliance, best practices for DOT random drug and alcohol testing.'* Le DOT c'est le *Department of Transportation*.

Enfin, Madame la présidente, je vais aussi suggérer au ministre de légiférer pour que comme aux États-Unis, les entreprises et les commerces employant plus de cinq ou dix chauffeurs de faire tester *randomly* ou régulièrement au moins chaque mois leurs chauffeurs pour l'alcoolisme et la consommation addictive de drogue. Ces entreprises doivent être les premiers responsables sous la loi de la bonne tenue et de l'état de sobriété de leurs chauffeurs

opérant souvent à des vitesses extraordinaires et inacceptables, des poids lourds, des vans, des deux-roues qui sont impliqués dans des milliers d'accidents et de morts sur nos routes.

Aucun gouvernement ne peut continuer à se croiser les bras comme c'est toujours le cas et à fermer les yeux sur le progrès dans les sciences et techniques de détection des diverses substances intoxicantes chez les chauffeurs et conducteurs opérant sur nos routes. Ce que j'ai dit sur les États-Unis s'applique aussi à l'Angleterre. Les Anglais utilisent les services d'une entreprise privée pour obtenir des tests de conducteur pour la détection de drogue ou de l'alcool. Je dépose maintenant à l'attention du ministre un document de présentation de cette compagnie AlphaBiolabs. Le ministre y trouvera les renseignements nécessaires s'il veut introduire la version anglaise de ces tests. Les services sont offerts pour toutes les catégories de transport du gouvernement et autres institutions publiques aussi bien que du secteur privé.

Voici la liste des services d'AlphaBiolabs non pas pour l'affaire de la publicité, mais uniquement une idée au gouvernement sur le fonctionnement de ce système nécessaire de tests de détection, de substances intoxicantes qui sont indésirables dans le corps d'une personne au volant. Je cite ce service ici -

- Professional driver drug and alcohol testing. We provide the fastest laboratory confirmations available: same day results if required;
- Bespoke testing solutions to help your company achieve its goals;
- Winner of the Queen's Award for Enterprise in Innovation for rapid laboratory testing services;
- Operating for over 10 years in the drug and alcohol testing sector;
- Full chain of custody procedures;
- Expert sample collection service;
- Rapid sample screening on-site with immediate results;
- Can test and confirm a wide range of drugs and their metabolites;
- Sample collection training available, and
- Improve health and safety at work.

Le reste des informations et détails peut être recueillis par une requête du ministère aux autorités britanniques.

Pour terminer, Madame la présidente, il faut inclure les deux roues : moto, vélo et autres véhicules roulant sur nos routes. Enfin, je remercie la chambre de m'avoir écoutée, espérant que cette fois-ci je serai enfin entendue sur cette question. Merci.

Madam Speaker: I suspend the sitting for one hour.

At 8.15 p.m., the sitting was suspended.

On resuming at 9.26 p.m. with Madam Speaker in the Chair.

Madam Speaker: Hon. Benydin!

(9.25 p.m.)

Mr T. Benydin (First Member for La Caverne & Phoenix): Thank you, Madam Speaker. We note with great concern that despite various road safety measures taken in terms of legislations, enforcement, education and road infrastructure, fatal road accidents keep on occurring with heavy economic and social consequences. And as of today, we have already reached 95 fatal cases.

No caring Government can remain quiet on such an alarming situation. Amendments to the Road Traffic Act have, therefore, become an urgent necessity to deal with accidents and it is very relevant in this present conjuncture for the Minister of Public Infrastructure and Land Transport to come forward with the amendments to be brought to the Road Traffic Act. As such, we look forward that the measures proposed will help to act as deterrents and as well bring a sense of responsible driving and inculcate good road safety culture in all road users.

Madam Speaker, life is the most precious asset for any human being and it is priceless. No compensation, no blood money can heal the loss of a close relative or our loved ones, friends, colleagues and neighbours. It affects all of us when we hear such tragic road accidents. Madam Speaker, fatal road accidents, the more so when we are driving recklessly or drunk is killing and such killing is not a matter limited to the deceased, but to a whole family. We note that fatal accidents, the probable causes are mainly due to speeding, dangerous driving, reckless riding, heedless crossing, careless driving, drinking under the influence of alcohol etc.

This Bill, Madam Speaker, is coming as a savior, to save the life of many innocent persons and to minimize fatal accidents by sensitizing road users through road safety measures. Road safety measures, Madam Speaker, are those measures that can prevent road users, pedestrians, cyclists and motorists from being victims of fatal accidents or from being severely injured. However, we must take cognizance of the fact that this important Bill

should not be viewed solely on penalties perspective. Over and above, Madam Speaker, this Bill should also be viewed from a holistic point of departure.

It must take a multi-dimensional approach to look for the root cause of accidents. Experts in this field have associated road accidents with poor road conditions, - this has already been mentioned - improper road signs and road markings, - I heard hon. Members from the other side have mentioned road markings - poor visibility and lightings, absence of dashing flashes at black and accident-prone spots, drink and drive or inexperienced teenage driving, distracted speeding, careless and reckless driving, irresponsible pedestrians and also other road users.

Madam Speaker, in the proposed measures contained in this Bill, it is worth mentioning - although this has been mentioned in the introduction by the hon. Minister - some of the measures, for example, the fixed penalty notices which will be obligatorily imposed on a road traffic offender. And also the list of fixed penalty notices will be increased from 141 to 204 including speed offences. Fines on some 112 offences of the Fixed Penalty Notice Scheme will be increased and will range from Rs500 to Rs10, 000.

Speeding by more than 25 km/hr above the speed limit will be increased from Rs2,500 to Rs10, 000 and licence will be suspended for a period of 6 to 12 months for a driver committing three cumulative road traffic offences. I would like also to speak on the philosophy of the zero tolerance of alcohol while driving, but we note also that while presenting the Bill to the House, the hon. Minister of Public Infrastructure and Land Transport has announced that rather the percentage applied will be 20 mg in 100 ml of blood.

Fines in respect of driving while under disqualification will be increased from Rs10, 000 to Rs100, 000. This list can be even longer and for the purpose of my speech, I am moving forward with a second stage which concerns some of the steps that can be taken to avoid or minimize accidents. Both drivers and pedestrians must pay attention and concentrate while on roads. Drivers must avoid all actions that can lead to unwanted accidents as I already mentioned before and the causes of accidents while pedestrians should be doubly conscious by avoiding the use of earphones or mobile phones that distract attention and concentration.

Madam Speaker, pedestrians as well should strictly adhere to road signs and instructions and walk on the right road side as we were taught at primary schools. I still remember when I was a kid; emphasis was laid that we should not walk more than 2 persons side by side. This is bringing me back some nostalgia of my early school days. Pedestrians should also know the meaning of road signs, the traffic signals and pay attention by using

side roads and zebra crossing and do not act haphazardly. Road users are constantly at risk and traffic knowledge can shape the attitudes and behaviours for all drivers and pedestrians.

Having said this, Madam Speaker, I would now like to move on even more serious elements that should be taken on board while considering this Bill. As stated earlier, this Bill should not be limited to the amendments brought to penalties. This Bill has to consider the reshaping of our attitude and behaviour on roads. This Bill should not be limited to the amendments brought to penalties. This Bill has to consider the reshaping of our attitude and behaviour on roads.

It is, Madam Speaker, an excellent initiative taken by the Police Force to exert more regular control, for example, also have checkpoints, more control on alcohol tests and check on speeding and dangerous driving. No doubt these measures can and are contributing to render the road users more responsible, but it is also high time to extend stricter measures to pedestrians as well as those who are contravening the regulations.

We must take the bold initiatives to punish even pedestrians like when we had some years ago the campaign '*to zeté to payé*'. And it works. But before, Madam Speaker, we must engage ourselves with the support of all the stakeholders and even through CSR on an aggressive education, information and communication campaign using all our channels, TV, radio and other media to hammer public opinion on the necessity of being responsible on roads. I remember also while I was working in Belgium some years ago, and in view of the growing number of fatal accidents, *hécatombe*, a campaign was launched under the theme, particularly for the young '*jeunes mais pas fous*'.

Madame la présidente, afin de supprimer les risques d'accidents, il est devenu indispensable de mettre en évidence des principes de conduite défensive. C'est-à-dire de prendre conscience, de créer un sentiment de sécurité sur la route. Adopter une conduite défensive, c'est apprendre à limiter, voir même supprimer tout risque d'accident. Il faut adopter un comportement au volant aux conditions du trafic et anticiper les fautes d'autres usagers, constater l'état des routes, l'intensité du trafic et vérifier l'état de notre véhicule régulièrement. Je me demande moi-même comment maintenant chaque matin est-ce que nous-mêmes nous vérifions nos véhicules? *We are in a hurry*. Nous sommes tous pressés le matin. On presse sur le bouton, et comme la voiture est en marche, on roule. Donc, je crois qu'il faut faire comme nos grands-pères, à l'époque, je me souviens, ils vont mettre les véhicules en marche pendant cinq minutes pour vérifier. Même c'étaient des vieux véhicules,

mais à l'époque il y avait beaucoup mieux de contrôle. Mais aujourd'hui, parce que nous vivons dans la modernité, donc nous voulons que tout soit facile.

Donc, je crois qu'il faut vérifier l'état de nos véhicules. Comme j'ai dit l'état de route aussi, si la route est glissante, je crois qu'on a mentionné cela. Je crois qu'il faut exercer aussi des contrôles sur l'état des routes. Parfois on voit qu'avec les chantiers de construction - moi-même j'ai eu un cas dans ma circonscription – il y en a des camions qui viennent avec de la terre, surtout avec la pluie. Donc, il y a beaucoup de boue sur la route, c'est glissant et ça peut causer des accidents. Je crois qu'il faut vérifier tout cela et les autorités compétentes doivent prendre aussi des sanctions pour améliorer l'état de nos routes.

Combien de fois, par exemple, est-ce que nous vérifions? Même les essuie-glaces, quand cela se grince un peu que nous constatons : 'Ah, maintenant je crois qu'il faut aller chez le mécanicien pour changer les essuie-glaces!' Donc, ce sont autant des causes je crois que, nous-mêmes en tant que conducteur, nous devons aussi prendre des responsabilités pour voir l'état même des pneus, des freins, etc. C'est aussi notre responsabilité. Donc, c'est dans le contexte de la conduite défensive. Je crois que ces facteurs sont importants. Nous-mêmes, comme j'ai dit, nous devons nous poser quelques questions. Est-ce que j'ai absorbé récemment de l'alcool ou j'ai déjà ingéré/pris de médicaments? Est-ce que je suis fatigué? Surtout avec le stress, avec le travail après une longue journée harassante - comme, ici-même, au Parlement - trop fatigué, est-ce que nous pouvons prendre le volant ? Donc, il y a des problèmes. Est-ce que nous avons eu des problèmes familiaux ou des problèmes au travail ? Est-ce que nous souffrons nous-mêmes de certains maux physiques, telle que vue insuffisante ? Nous avons des problèmes de santé. C'est autant de questions que nous-mêmes, nous aussi nous devons prendre des mesures pour voir si nous sommes capables de conduire notre véhicule.

Donc, ce sont autant de cas que je voulais signaler ici, parce qu'on parle d'éducation mais nous aussi nous devons assumer nos responsabilités. Donc, adopter une conduite défensive, c'est aussi songé. Je crois que mon ami l'honorable Jahangeer a parlé les risques d'aquaplanage, de vitesse, flaques d'eau, des pneus en moins bon état qui conçoquent autant des facteurs, des risques de perte de contrôle de direction. Il faut aussi maintenir une distance. Je crois que nous sommes tous pressés. Comment on dit cela, mon ami, l'honorable Jahangeer ? Parfois on ne maintient pas les distances d'au moins 3 mètres par rapport au véhicule qui nous précède. Souvent on voit des accidents, des collisions enchainent le carambolage. Je crois que ça aussi nous devons prendre en considération parce que nous

sommes tellement pressés le matin pour arriver au travail, donc, on roule. Comment on appelle ça? *Side by side!*

(Interruptions)

Côte à côte.

Madam Speaker, road safety education should start at home. This has already been mentioned by previous speakers, but I would like to repeat because it is very important. Road safety education should start at home, pre-primary, primary, secondary and tertiary education. It must even be an examinable module on road safety upon the caption of 'Civil Education'.

Madam Speaker, the setting up of motor vehicle driving school is already a stepping stone. But driving schools for all vehicles should be reinvented not to limit themselves to test drive, but to include an examinable module for theories as well before issuing of a learner's licence. This is how I believe, Madam Speaker, we should view this Bill. There is need to set up a driving academy if possible to look after all these aspects and only then we can see a better and safer Mauritius.

Madam Speaker, it is high time for all road users to understand that when we leave our home in the morning to go to our daily task, that is, school, college or workplaces or any other task, a family is waiting for us back home in the evening safely in person to share the happiness of the family, not as a dead body in view of which accidents may cause.

So, on this note, I would like, again, to thank the hon. Minister for bringing this Bill to the House, and I would like to thank you all for listening to me. Thank you Madam Speaker.

Madam Speaker: Hon. François!

(9.41 p.m)

Mr F. François (First Member for Rodrigues): Madam Speaker, I stand in support to the amendments of the Road Traffic (Amendment) Bill (No. X of 2018), as introduced by the Minister for Public Infrastructure and Land Transport, hon. Bodha.

This is a very important Bill which will tackle serious problems on our roads and, especially the problems of indiscipline, speeding and drink driving.

The main object of the Bill is to amend the Road Traffic Act, so as to do away with the present regime of Fixed Penalty Notice, disqualification of a person for 5 cumulative road

traffic offences, consolidation of list of offences, criminalise of certain action against a driving permit, increase of fines in respect of Road Traffic Act, and to review the prescribed limit of alcohol concentration in the blood, breath and urine.

Madam Speaker, I support the seriousness of making tougher laws that will apply to serious consequences of serious, dangerous behaviours on our roads. The introduction of stiffer penalties is, therefore, meant to bring caution to drivers to change their behaviours on roads and to reducing accidents.

Before going further, allow me to sympathise with those who have lost a loved one in road traffic accident during the years. It is clear that our Republic is motorising very rapidly, which requires us to bring serious and escalating road safety effects under control.

Madam Speaker, Road Traffic Accidents (RTAs) pose a public health and development challenge and greatly affect the human capital development of our Republic. This is where communication is an essential part of traffic safety, knowing well that traffic safety campaigns will make a significant contribution to the decrease in the number of fatalities and severe injuries on our roads, and I believe this has to be increased by at least ten-fold.

Madam Speaker, clause 13 of the Bill provides for the amendment of section 124(4)(a) of the Act, where any person who drives a motor vehicle on a road at a speed exceeding a prescribed speed or the speed limit indicated on a traffic sign erected under subsection (2), shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees or, in the case of a third or subsequent conviction, to a fine not exceeding 10,000 rupees; by replacing the Rs5,000 and Rs10,000 by Rs50,000 and Rs75,000 respectively.

Madam Speaker, I believe that Government would be happy not to receive a single rupee in fine revenue from road traffic offences and would much prefer that people comply with road laws, which will imply a zero-tolerance achievement. The question is how far this objective is truly achievable in our road traffic system.

Madam Speaker, I am also particularly concerned with older people who are particularly accident-prone road user group, both as drivers and as pedestrians, especially those people suffering from dementia or those showing sign of Alzheimer, which will affect their ability to drive safely. I have been informed that they are usually reluctant to stop

driving and they link driving to their independence and freedom. I believe the law should be amended in that direction as well.

Road safety is a very crucial subject at the moment, and sadly the youths are the most affected ones. Madam speaker, I am very much interested to know how many young drivers, let's say aged 18 to 25 years old, who had not driven under the influence of alcohol for the last six months. What is the real percentage of young drivers who report driving under the influence of drugs, mainly cannabis and synthetic, as sufficiently canvassed by previous orators?

Madam Speaker, our youths must be educated on road safety so that they themselves become road safety ambassadors. The Police shall continue to develop and implement a new speeding campaign targeting youth and young adults by making it mandatory for them to attend same as a requirement for learners and provisional driver's license. It is high time that we start looking at introducing provisional plates for provisional drivers ageing between 18 and 25 years old.

Madam Speaker, my question is: Are we doing enough at an early stage to ensure that young drivers are educated on the dangers of speeding and drink- driving? I am not quite sure how far our schools have included in their curriculum information about the effects of alcohol and the dangers of dangerous driving, driving under the influence of alcohol or speeding and so on.

Madam Speaker, I will propose that the Ministry of Land Transport in collaboration with the Ministry of Education, the Road Safety Unit, the Police and others to work on the possibility of offering Traffic as an elective course in our schools. All our schoolchildren shared road users. At primary level, the Traffic course could be an option that can be implemented during winter or summer schools. Why not the Ministry of Education ensuring of making it a mandatory module to prepare children for when they take up driving at 17 or 18 years old? And further, the Driving School instructors also should be regularly attending continuous training courses.

Let me now look at clause 3 of the Bill which proposes to amend section 2 of the Act with regard to the definition of the prescribed limit for alcohol concentration in the blood, breath and urine, which is being reviewed by -

- (a) replacing 23 micrograms by 9 micrograms of alcohol in 100 millilitres of breath;
- (b) replacing 50 milligrams by 20 milligrams of alcohol in 100 milligrams of blood, and
- (c) replacing 67 milligrams by 27 milligrams of alcohol in 100 millilitres of urine.

Madam Speaker, drink-driving is a sensitive subject. It should be severely punished, and the disqualification penalty for five cumulative road traffic offences, as mentioned in the Bill, is a very powerful deterrent. I acknowledge that excessive drinking and drink-driving should not be tolerated in our Republic. The review of the prescribed limit for alcohol with tougher penalties is most welcome.

And I have to say, Madam Speaker, despite the regular recruitment of Police Officers by the Police Force and an increase of vehicles volume on our road, traffic Police Officers could not be at every junction around the island. Referring to the offences of the Fourth Schedule of the Bill to be amended, it is clear that any on-road vehicle shall be serviceable to ensure a constant level of safety. This implies that the level of inspection must be of a very good standard.

Madam Speaker, this Bill has a bearing in terms of investment on road infrastructure, in terms of quality and designs that can greatly help to reduce the frequency and gravity of road accidents. I have to say that I like the road standards of the Dutch, who have been very successful by getting, first of all, the design of the roads and streets right to ensure road safety.

(Interruptions)

Certainly!

The Town and Country Planning has played the biggest part in reducing accidents. Roads are built to prioritise safety over speed or convenience. Here, our road designers and urban planner need to think out of the box and get out of the traditional road design. Surely, in terms of space, we are limited but there is need to create a better environment by adopting the creative living road to calm down traffic. I say so because I, myself, is a surveyor and a Town and Country Planner by studies.

Madam Speaker, allow me to address this Bill in relation to Rodrigues. One fundamental aspect with regard to Rodrigues is that we do not want to see the situation of road traffic accidents deteriorate despite a considerable increase in vehicles volume.

Let me refer to some statistics! In Rodrigues, there is around 14,605 registered vehicles with the NTA as at June 2018 from which the number of motorcycles, the highest one, registered is 9,020. The number of cars, dual purpose: 3,562 and number of buses: 198 for a population of around 42,000 souls. Based on statistics from the Police, road accident statistics for Rodrigues, for the last five years are as follows –

- the number of road traffic accidents is 973, from which 605 casualties;
- the number of fatal road accidents/traffic accidents is on an average of 2 per year for the last five years;
- the number of accidents resulting from alcohol is on an average of 10 per year, and
- the estimated percentage vehicle accident ratio from my calculation is around 6.7%.

Madam Speaker, in Rodrigues, the two wheelers remain the most vulnerable group with 52% of the total vehicles involved in accidents and 54% of casualties, as I mentioned; 322 wheelers out of 605 casualties.

With regard to road traffic offences, the statistics from Police shows that –

- breach of conditions attached to provisional licence is 2,910, that is, 13.2% of total contraventions and the total contravention is 21,998;
- failing to produce driving licence on demand is 2,234, that is, 10%;
- exceeding speed limit: 1,968, that is, 9%;
- fittings out of order: 1,684, that is, 7.7%,
- driving under the influence of alcohol: 313 cases, that is, 1.4%.

In relation thereof, I am happy to note that the Rodrigues Police Division is engaged in a vast campaign against speeding, with daily speed checks being carried out throughout the island.

Madam Speaker, in Rodrigues, technically speaking, the maximum set speed limits on our roads for the existing conditions and road environment to reduce the number and severity of road accidents is 50km/h maximum. In certain zones, namely on the Route de

l'Autonomie, that is, from the village of Marechal to Plaine Corail Airport, for those who know well Rodrigues and from Mont Lubin to Port Mathurin, drivers are constantly complaining about the maximum speed limit of 50km/h, which requires them to keep their feet on the brakes all along these zones, resulting in an overheating of the brakes, which is even more dangerous for them. I have witnessed myself the episodes of what we call *frein percé* of public buses on the Mont Lubin-Port Mathurin road.

Madam Speaker, I would suggest that the competent authority at national level looks into the possibility of increasing safely the speed limit thereat. Let us say between 50-70km/h maximum. And, for example, on the littoral road in the northern region of the island, that is, from Pointe La Gueule to Baie du Nord, to increase the speed limit from 40km/h to 50km/h or a maximum of 60km/h. And I understand that the Commission for Public Infrastructure in Rodrigues is liaising with the Ministry of Public Infrastructure and Land Transport for necessary amendments of the laws in that regard.

In Rodrigues, most accidents, either fatal or serious, happen in curved-zones, which necessitates an upgrading of these zones, which the Commission for Public Infrastructure is working on their improvements.

Madam speaker, again, I will request that Scientific Road Test and Research be carried out for those mentioned zones by the competent authority to substantiate the necessity for any speed limit adjustment in Rodrigues.

Having said so, allow me, to praise the Voluntary NGO Road Riders Club, a group of youngsters in Rodrigues for their valuable road safety campaigns to educate motorists or riders on road safety. Road Riders Club was the one to initially campaign for the setting up of *Moto-école* to improve the safety of motorcycle riders in our Republic. Unfortunately, *Moto-école*, today, could not be set up in Rodrigues, from the exigencies of the actual legal provisions, which is a problem for potential Motorcycle Learner Riders.

Madam Speaker, I would suggest that the Ministry of Public Infrastructure and Land Transport, in collaboration with the Regional Assembly, provides intensive short courses for both *Auto-école* and *Moto-école* potential instructors to validate their instructor's Licence. Those potential instructors have been told that they have failed the competency examinations. However, they could not get access for the upgrading of their knowledge. I have been made aware also that there is a social problem with regard to old age motorcycle riders, who will

have the difficulty to pass the new driving competency test and on the other hand, young riders, especially students, will face the difficulty to invest around Rs10,000 to get a driving licence.

Madam Speaker, another very important issue with regard to Rodrigues is the non-gazetted of our roads, which has a great bearing in the Rodrigues Court. Many Court cases on this technical ground of non-gazetted roads and track-roads have been dismissed. Madam speaker, to substantiate this, allow me to refer to the Judgment from the Case No. 629/2016 of Police vs Mr Joseph Alexandre Lawsan for the charge of exceeding speed limit in breach of section 124(1)(4)(a) of the Road Traffic Act made under Regulations of Government Notice 25/2011 and amended by Act 38 of 2008 coupled with section 52 to Second Schedule and coupled with section 123 AG of the Road Traffic Act as amended by section 8 of Act 17 of 2012. The accused party is charged on the above offence that I have just mentioned whilst driving his motorcycle along the *Route de l'Autonomie*, main road, that is, at Cascade Jean Louis - near the Airport - at a speed greater than that prescribed as the maximum speed in relation to motor vehicle travelling on such road to wit: 70 km/hour instead of 50 km/hour. The accused pleaded not guilty to the charge.

Madam Speaker, after due consideration of the evidence on record, the Court holds that no prosecution can ensue in the present case for the following reasons -

- (i) the road in question is not a properly gazetted road;
- (ii) the sign post stating that there is a speed limit in that region, has not been gazetted to make it legal. Therefore, the offence of exceeding speed limit in that area was not applied, and
- (iii) further, no certificate of calibration of the radar has been produced for the Court to be able to rely on the reading that was obtained.

Madam Speaker, for a full application of the Road Traffic Act as well as Road Act in Rodrigues, our Police must be well-equipped, I understand with regard to speed control, the Police is in possession of only three old non-photographic handheld speed radar, as there are no fixed photographic enforcement devices in Rodrigues. The calibration and number of breathalyser has also raised concern from the information I gathered. I am aware that there is discussion between the Commission for Public Infrastructure in Rodrigues and the Ministry of Public Infrastructure and Land Transport and the Minister Mentor's Office to remedy same. I will simply request to expedite matters in that direction.

In addition, being given that there are no traffic lights on our roads in Rodrigues, many Police officers are deployed on our roads, and this put pressure on the strength of the Police Force in Rodrigues. I seize this opportunity again to make a request to the Commissioner of Police, through the Rt. hon. Minister Mentor, to consider increasing the Police strength in Rodrigues. Consequently, on behalf of those Rodriguans born Police Constables who have completed their training programme with enough working experience here be posted back to Rodrigues Police Division, in support of the existing shortage of manpower thereat.

Finally, I have to congratulate and encourage the Police in Rodrigues to continue their community policing campaign on regular road users' public education, be it in the village community centres, colleges or schools.

Madam Speaker, to conclude, this Bill is allowing Government to implement a Safe System Approach while contributing to change drivers and Pedestrians' behaviours to make our roads safer. The United Nations Economic Commission for Europe reported and I quote, that –

“It is the duty of all those concerned to mobilise to address the road safety crisis which is a multi-faceted problem requiring political leadership, a systematic response, well-orchestrated action and collaboration of Government, business and civil society at all levels to achieve results. Every effort needs to be made to put an end to road crash death and injury, which is predictable and avoidable”

This is what this Bill is aimed at.

Madam speaker, it ultimately comes down to each of us to ensure we are doing our part as responsible and disciplined citizens to improve road safety and be respectful to other people's life. This Bill shall remind us also of our intended national contribution to climate change solutions for safer and cleaner transport on our roads and new road design to cater for climate change events.

One last thing, on the streets, many people outside are arguing that through this Bill, *‘gouvernement pe rode plus l'argent ou government pe mette la loi pou tire manger lor coltar’*. Madam Speaker, this Bill is not about obtaining more money from the road users, it is about loving life, protecting it and keeping families and everyone else safe on our roads.

Let us congratulate hon. Minister Bodha for the bold steps he is taking and the measures to improve our roads.

On these notes, I thank you for your kind attention.

Madam Speaker: Hon. Dr. Sorefan!

(10.11 p.m.)

Dr. R. Sorefan (Fourth Member for La Caverne & Phoenix): Thank you, Madam Speaker, for allowing me to participate in the debate relating to the Road Traffic (Amendment) Bill (No. X of 2018). I wish to congratulate the hon. Minister for bringing this Bill to this House.

Madam Speaker, most of the amendments that are proposed, their objectives are to deter, I repeat, to deter drivers from committing road traffic offences. Madam Speaker, the efficacy of road safety countermeasures to deter motorists from engaging in illegal behaviours is extremely important when considering the personal and economic impact of road accidents on the community. Madam Speaker, deterrence in many countries has remained a corner stone of criminology and criminal justice policy, mainly within the field of road safety.

Madam Speaker, like many countries, we, in Mauritius, as policymakers and enforcement agencies, still believe in the classical deterrence theory which remains the most widely understood model. What this theory proposed us, Madam Speaker, is that individual will avoid offending behaviours if they fear the perceived consequences of their act.

Madam Speaker, there is a mathematical formula related to this theory, I quote –

“Law breaking is inversely proportional to certainty, to severity and to swiftness of punishment...”

Madam Speaker, this means that legal threats are most effective when possible offenders perceive a high likelihood of the certainty of apprehension and believe that the punishment will be both severe and swift. Madam Speaker, the word ‘certainty’ implies that the offender will be arrested and punished for their criminal act. Madam Speaker, this law, if I can call it, ‘law of certainty’ applies to a variety of different criminal acts, for example violent crimes, robbery, sub-lifting, illicit drugs, etc. This law works well when it comes to road safety. The apprehension of certainty, Madam Speaker, has a positive effect on deterring offenders. This Bill addresses this issue of certainty quite well.

Madam Speaker, severity of legal sanction is extremely important and these legal penalties on offending drivers are well enumerated and canvassed in this Bill. I would not go through the list which is self-explanatory in this Bill, only to say that individual offenders will be reluctant to commit an offence if they consider that the penalty for such offence is

severe and really very severe. Madam Speaker, swiftness of sanctions relate to the rapidity of the application of punishment which for illegal behaviour will be most noticeable when they are administered soon after the offence.

Madam Speaker, it is well recognised that for road safety the swiftness of threatening penalties is an important aspect for achieving deterring. Madam Speaker, it is commonly known that when an offender, who has been fined and punished for an illegal act, will refrain from further offending behaviour for fear of incurring additional punishment and it is also known that an individual refrains from engaging in an offence as a result of observing others being punished for an offending behaviour.

Madam Speaker, how do we apprise drivers of the above is through education. Madam Speaker, the hon. Minister said in his speech, I quote –

“...new approach towards imparting Road Safety Education is being realised, sensitisation of road users on road safety is being carried out relentlessly throughout the year and much is being done for the improvement for a safer road environment.”

Madam Speaker, education is *le maître mot*, is paramount, is predominant and is the focal point if we want the content of this Bill to be well understood and adhered to. Madam Speaker, how do we provide road safety education? I honestly think and I am convinced that we should inculcate the notion of road safety at school starting at primary level to be really successful and then extending it to secondary school. Most of common road signs should be painted on the school walls and explained to the students.

Distribution of educational flyers with specific message for students, for example, to tell their parents to drive safely, among others, and to wear their seat-belt, to report contract vans carrying students when the driver is speeding and driving dangerously. Madam Speaker, when a young one tells one's parent who is driving dangerously, the parent always listens to the children and act accordingly. It is the child who educates their parents when it comes to road safety. Madam Speaker, at secondary and tertiary level, road safety mechanism should be put in practice in the yard of the school by Police Officers or tutors and why not setting up a resident teenage disciplined institution during school holidays for a week or so.

To inculcate various virtues, i.e. behaviour showing high moral standards like goodness, righteousness, morality, honesty, incorruptibility, decency, respectability, honorability, trustiness, integrity of pleasant life, respecting the laws of the country, ill-effect of smoking, alcohol, drugs and how to be a safe driver to protect one's own life and that of

others among many other virtues, Madam Speaker. Madam Speaker, if one day we succeed to implement the teenage disciplined institution; Mauritius will be the shining star of the Indian Ocean.

Madam Speaker, education to the motorists must be further promoted and hammered through them, through medias and be made aware continuously of traffic laws, for example, the types of driving offence and the broad range of penalties. Madam Speaker, motorists should be made aware of the likelihood of being caught and of being penalised with the type of penalty. They should be made aware of the degree of social stigma attached to the offence without forgetting personal injury and injury to others, should be made aware of loss of time at the level of justice, the likelihood of damage to drivers owned or another's vehicle or premium and many other awareness that I may have missed out, but the last one is shortening of your life and reaching the destination very fast.

Madam Speaker, let me come to some specific issues related to road safety as elaborated in this Bill, namely drinking and driving. In the Budget Speech, zero tolerance to alcohol while driving was mentioned. Hon. Minister Bodha has lengthily clarified the philosophy below zero tolerance and as such the justification of 20mg of alcohol in the blood in 100 milliliters of blood and 9 mg of alcohol in 100 ml of breath or the 27mg of alcohol in 100 ml of wine that will be law on the Third Reading of the Bill.

Madam Speaker, we should not take the 20mg in isolation. There is the cultural aspect of the country. For example - Russia was mentioned -, are we aware that the Russians do not take tea in the morning? Their drink is vodka. During the day, before they take their lunch, vodka. Dinner, vodka!

(Interruptions)

In France, they do not go for tea and coffee. They go for wine during the day. So, the cultural aspect of the country should be taken into consideration, not in isolation of the 20 mg. We must not copy other countries' limit. We must set up our own limit, and gradually go to zero tolerance. We are not preventing people to drink. No matter how many glasses, all we are saying is "No drinking when you need to drive because it is my right to be safe as a road user".

Madam Speaker, the zero tolerance is a good move as deterrence, but we must go further to discourage the habit of drinking and driving. Madam Speaker, deterrence based

countermeasures definitely have the potential to create attitudinal and behavioural change even among established, entrenched and previously acceptable cultural behaviours such as drink-driving. The best deterrence that works effectively is through the implementation of random breath testing.

Madam Speaker, research has shown that while a number of factors have contributed to the reduction of drink-driving in Australia for the past 30 years, random breath testing as a countermeasure is one of the primary reasons for the reduction of alcohol related crashes in Australia.

Madam Speaker, we must demonstrate a high level of commitment by the enforcement institution for the random breath testing as a programme to provide the deterrent effect. Madam Speaker, for the implementation of the random breath testing operation, we must acquire state-of-the-art breath testing equipment.

Madam Speaker, when the operation of random breath testing is on, it should be one that is highly visible, sustained and widespread like other road safety countermeasures, and to be a communication tool influencing community perception of the social and acceptability of drink-driving. Madam Speaker, the aim of random breath testing should not only be to target specific behaviour, but also the cultural climate in which the behaviour occurs and is supported, for example, private clubs, night parties and social gathering. This will no doubt increase the number of people to disapprove drink-driving.

Madam Speaker, let me say a few things on speeding, which is the main notorious culprit when it comes to fatal accidents. Statistics research shows that fatal accidents and serious injuries are highly related to speed. Madam Speaker, some orators have mentioned that fixed cameras are not for catching people. It is to prevent accidents at very high risk zone by reducing speed. This law is to prevent accident through deterrence. How many technologies should we bring to Mauritius to prevent accidents? Change of human attitude would be a bigger investment than technologies. We cannot go on every time buying new technologies to prevent accidents. We have to change people, drivers' attitude.

Contraventions, Madam Speaker, are increasing year by year. What the hon. Minister Bodha has listed regarding contraventions are alarming, and I am convinced that the figures mentioned may be higher. Madam Speaker, the mathematical formula referring to fatal accidents due to speeding is as follows. For every 10 km/h reduction of speed, the number of

fatal accidents is estimated to go down by 35%. In other words, a 10% reduction in the mean speed of traffic will result in a 35% reduction of the number of fatalities. When speed goes down, in general the number of accidents or injured road users also goes down in 93% of the cases. When speed goes up, the number of accidents or injured road users goes up in 71% of the cases. Madam Speaker, what I am trying to emphasise is a reduction in speed will almost always improve road safety; the larger the change in speed, the larger the impact of accidents or accident victims.

Madam Speaker, we, the policymakers, want to develop a road transport system in which nobody is killed or permanently injured. Speed is the most important factor to regulate. A legitimate basis exists for limiting the freedom of choice with respect to speed. Madam Speaker, we must embark on extensive system of speed limits and a programme of enforcement.

Madam Speaker, now let me say a few things about drugs. This amendment Bill has no proposal regarding drugs and driving. The hon. Minister said in his speech that he will come with an amendment to the Dangerous Drugs Act 2000 and why the amendment could not be brought under the Road Traffic Act for drug-driving as both laws should be amended together. Madam Speaker, sections 123D and 123E of the Road Traffic Act make provision for careless driving under the influence of intoxicating drink and drugs. We could have come with the amendment in this Bill, elaborating all the issues and not proclaiming the section concerned until we get all equipment necessary for drug identification, etc. What more, Madam Speaker, the hon. Minister said that the draft on this drug issue is presently at the State Law Office.

Madam Speaker, the hon. Minister mentioned procurement of a liquid chromatography and high resolution mass spectrometry for testing of physical forms of both synthetic and non-synthetic drugs. Madam Speaker, just to elaborate what is a mass spectrometry analysis. This equipment is not new invention. It dates back as long as 25 years ago. But there has been improvement. The mass spectrum reads the chemicals and translates it into a bar graph, each vertical line representing an ion having a specific mass. The length of the bar indicates the relative abundance of the ion.

It is a good measure of drugs in the blood through mass spectrum. Liquid chromatography reaches mixture of chemicals and translates it into peak graphs. Each peak of the graph is specific to the chemical compound. The graph is read with comparison with an

already standard set of graphs, liquid chromatography can reach about 190 different chemical compound in one go, Madam Speaker.

The hon. Minister mentioned that very soon, they are going to get those two equipments. This is excellent, but I am surprised that the Minister did not mention drug analyses. It is a kind of analyser, but it goes directly for drug, that can be used at roadside testing for certain specific drugs, by Police Officers who can also carry out the roadside field impairment tests. If the driver fails these test, he can be arrested, taken to Police Station where the driver will provide a blood or urine sample. Anyway, I am hoping that when the hon. Minister comes with amendments in a later Bill, that the counter measures are excessively severe to act for an unquestionable deterrence.

Madam Speaker, to sum up, I will list my 10 commandments to road safety –

Thou shall not drive without a licence

The sentence will be confiscation of your vehicle

Thou shall not drive recklessly, irresponsibly

Thou shall not drive without a fastened seat belt or use a mobile phone or without a helmet

Thou shall not kill yourself, your loved ones or road users

Thou shall not be uncourteous to other road users

Thou shall not drive under the influence of illicit drugs

Thou shall not interfere and persuade Police Officers from enforcing the law; some parliamentarians do interfere

Thou shall not involve in bribery

Thou shall not over speed, and lastly

Thou shall not drink and drive.

Madam Speaker, if the above 10 commandments are not adhered to, God will be waiting at the entrance of a well tarmac road with a one-way sign, no U-Turn with double yellow lines, no speed cameras, no angels as Police Officers. At the end of the road, there is a

gate waiting to open. Madam Speaker, I won't say what is behind the gate. All that I can assure all ill-mannered drivers is that behind the gate is definitely not paradise.

Thank you, Madam Speaker.

Madam Speaker: Hon. Dr. Boolell!

(10.37 p.m.)

Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes): Madam Speaker, a 10-commandment without Moses is a recipe for disaster. I will start by asking two basic questions. Why is it that despite a vigorous campaign being waged island-wide on road safety and secondly, why is it that despite a third Bill to amend the Road Traffic Act is being moved by the Minister. There is no empirical evidence to show any outcome. Instead, *le constat*, there is an increase in the incidence of fatal road traffic accidents. When we look at the three Bills which have been moved by the Minister, there is a common thread and the set objective is to do away with penalty points. I don't know whether it was because the dual system was introduced by the previous Government. This is a statement of fact. Of course, the crux of the Bill remains drink and drive.

Now, much has been said in respect of equipment. The fact remains that the equipment is available, but Government needs to act promptly. We know where the equipment comes from. In fact, the best equipment comes from Austria. I have no axe to grind though I am trying to promote the interest of everybody, but it stands to reason that the best equipment comes from Austria.

Now, the issue of drink and drive, you will recall, Madam Speaker, there was a popular programme which ran for several years on BBC and the presenter was Jimmy Savile, who, unfortunately, his name has been tarnished posthumously for alleged paedophile cases. But he started his programme with click and clunk and don't drink and drive.

Now, the Bill makes it clear that the offence of drink above prescribed limit and dangerous driving is punishable. But none of us is crusade of moral values. In fact, I don't want to be nasty, but if at this hour of late night sitting, we conduct a breathalyser, you know what the consequences would be. So, as I say....

(Interruptions)

No, not everybody has that privilege. But let me make it quite clear, none of us is a crusader of moral values, but like good citizens, it is easier to comply if there is the seal of proportionality. I grant you there is no easy solution to a complex cognitive and behavioural problem. Now, who is not for zero tolerance, but most people are against repressive measures. Zero tolerance, as was announced in the Budget Speech by the Prime Minister is a normal cliché, but totally out of reach for physiological reasons.

The law, even in our zeal to be authoritarian, should not be an ass. We have to compromise otherwise the cure would be worse than the disease. Therefore, as we say, leave it to the Court to use its better judgment. But even judgment can indeed be controversial as we had seen in respect of a judgment pronounced by a person who is highly appreciated in the Judiciary. We know what have been the consequences of this judgment. There has been hue and cry because to many the sentence was too light.

I have heard eminent lawyers on the radio not justifying the sentence that was pronounced, but they went as far as to say that the Magistrate could not be condemned although many people would have liked the person to apply a harsher sentence. So, even then, the legislator cannot bind the judiciary with tight-fisted legislations. And if Parliament, as we say, is the temple of democracy, it has to be a Chamber of the representatives of people assembled to express their considered opinions and thoughtful disagreements before coming to an outcome in the interest, not of the party, but of the country. And I have cited what was pointed out by Sashi Thacoor.

Therefore, I am glad that in respect of this Bill, none of us has parroted party lines. And it is good to recall that in 1926, on the Road Traffic (Amendment) Bill, hon. Shakeel Mohamed, backbencher of the Labour Government and hon. Ganoo, Member of the Opposition, drew the attention of the former Minister Beebeejaun that the proposal to confer powers upon the Superintendent of Police, the power to suspend the licence of the driver who is found to be under the influence of alcohol would not pass the test of constitutionality. That is these powers could not be conferred upon the Superintendent of Police to suspend the licence of the driver who is found to be under the influence or suspected to have been under the influence of alcohol.

This Bill, in my humble opinion, is pernicious and there should have been debates at the bar of public opinion. I see no reason why this Bill should have been rushed through. And

let me quote what hon. Gayan stated when he intervened on the Road Traffic (Amendment) Bill (No. VI of 2015) -

“Any Law that we pass must have the stamp of proportionality.”

I think this is very relevant otherwise it may be the cause of many grievances. This Bill, as it stands, takes away the small pleasures of life. It takes away the small pleasures of life, Madam Speaker. A glass of wine or a pint of beer with a nice meal or for that matter, be it an Irish or Scotch on the rocks. I ask the question as to whether a proper study has been conducted to assess the impact of alcohol as a cause of major road traffic accident. In spite of what hon. Paul Bérenger has stated, there is no international standard maximum permissible level as to the alcohol level in blood. There is a standard level, but not proven to be of standard level. If I take what the standard level is, it is 50mgs per 100 ml and that was not a figure that was chosen at random. Of course, we are not the United States of America where the level is 80 mgs per 100 ml.

So the point, Madam Speaker, in trying to respond to the needs of Government rather than the people, the Minister has gone beyond a limit and to me, that limit would not go down well with the population. The problem is not alcohol consumption; the problem is potentiation of alcohol by drugs. And when you look at the potentiating effect of alcohol on drugs, there is room for alarm, there is cause for alarm. Taking alcohol on its own, provided, of course, that we take it in moderation; would do no harm. But the problem today is that our country suffers from an epidemic level of drug consumption. And drug consumption cut across all communities and it has no cultural barriers.

(Interruptions)

You are right! At least, you acknowledge! And let me tell you whether it is marijuana or any psychoactive drugs, when it potentiate the alcohol level, it crosses the blood-brain barrier and the victim goes for a long trip with the consequence that a frail person can become an incredible hulk. So, this is the consequence of the potentiation of alcohol by marijuana or any psychoactive drugs. The fight cannot be narrowed or restrictive only to alcohol consumption, it has to be all encompassing and we have to hit hard at the causes of the problems and the major cause of this problem is drug and unless there is drug alleviation, it is a futile war.

The hon. Minister can come next time with another amendment to the legislation; it would not serve the purpose. So, either there is a purpose of honesty, we are honest in what

we intend to do or we give up the fight. That is why we impress upon the Prime Minister to implement the National Drug Master Plan. Already two years have gone, our appeal, unfortunately, has fallen on deaf ears,

Earlier, I mentioned about availability of the equipment. Let me tell you despite our best endeavour and availability of the latest equipment, still those who concoct the drugs or manufacture the drugs, they are ahead of us. Even with the best equipment and the best intention of the Forensic Scientific Lab (FSL), it is very difficult to conduct tests on people who have consumed those psychoactive drugs because of new drugs constantly coming on the market, and even FSL is limited to the number of tests that can be conducted. In the meantime, we cannot afford to waste time. I think it is important that funds are released for FSL and the Police to acquire the equipment.

So, as I have stated and have been stated by previous orators, the problem is cognitive and behavioural and the underbelly of this problem is the problem of drugs which can potentiate alcohol to a level beyond recognition. If we apply the sentences simply because the threshold has been lowered, what would be the consequences? One, the risk of those people being arrested and there will be an overcrowding of our jail. I am not saying that there should be no harsh sentence. I am not saying that those who commit offences should not be punished, but we have to tread cautiously because in lowering the threshold, we are opening a floodgate to breathalyse any citizen in this country.

When I look Section 2 of the principal Act which is amended the definition of “prescribed limit”, it stands to reason that those who have had one too many, but were not behind the wheel, would be scared to go to work the following day, because he or she may be tested positive. I am not going to talk of the time it takes for the alcohol to be metabolised or for alcohol to evaporate. Earlier, hon. Bérenger mentioned false positive. This may be considered as a false positive and the risk of putting innocent people behind bars is very likely. So, restraint does not mean teetotaler or a country has to be dry. I may not be drinking, but being a drug addict and being vulnerable to this scourge, as I say, cut across all communities and no persons is spared. So, that is why I say there is no need to be smart or to surf on a measure which appears to be popular.

We know what were the consequences of a Government when it tried to surf on a wave of a short-term popular measure at the last general election. By doing away with reliable road safety measure, we know that there was an increase in the incidence of fatal

accidents on our roads. I would remind the Minister that under the then MSM/MMM Government, I am sure he would recall that the Road Traffic (Amendment) Act was amended in September 2003 and a new part was inserted in the Road Traffic (Amendment) Act. It was related to road safety and a new provision was brought to section 123A with a new intent 'G.' Do you know what the object was?

The introduction of point systems and penalties that would lead to suspension of driving licences. That amendment was unanimously voted. It was repealed and replaced by Section 8 of Act 17 of 2012. It was for allocation of penalty points and came into effect on 10 May 2013. So, what I am trying to say, when you were in Government, you were for the introduction of points system, in replacing it today with the five cumulative road traffic offences, who are you hitting at? I grant you that we cannot let people get away with offences. The dual system of penalty points and fixed speed camera was a better deterrent. It did not hit at those who spend their time behind the wheels because this is the main source of livelihood. Today, by introducing the five cumulative road traffic offences, which provides for disqualification of a person, this conviction will be of limited benefit, but it will impact heavily upon taxi, lorry minivan drivers and the risk of losing the licences over a period of 24 months is extremely high. So, we are hitting at those who work for a living by staying behind the wheel.

Madam Speaker, Mauritius, as a Small Island Developing States cannot have the same safety regulations which a country like Austria has, but I would like to know whether there has been a breakdown of the number of fatal accidents caused by motorcycles of less than 50cc. In Austria and many OECDs countries, mopylettes or motorcycles less than 50 cc are not allowed to travel on motorways.

In the Schedule on offences, Road Traffic (Construction and Use of Vehicles) Regulations 2010, it is prohibited to carry load of handlebar of a motto or autcycles. The handlebar gives stability to the riders. It is equally bad to have one more person as a pillion rider and that point was fully canvassed by hon. Baloomoody. The persons who are at risk are very often schoolchildren. But then, I will come to a basic question again: how many motorcycles are roadworthy and meet US standards? Do you know what some people do? We know that it is an offence. What they do, they put heavier engine on a motorcycle with limited capacity. So, when it comes down to offences, let me come back to the offences of drink-driving under Section 123F or any other offence for that matter, the fact that there is no specific mention of motorcycle, I take it for granted that the use of the term 'motor vehicle'

would automatically cover motorcycles and the penalties applicable under each and every section will be equally applicable to those using a motorcycle and those types of vehicles covered under section 4 of the Road Traffic Act. In fact, if anyone is caught drink-driving a car or in control of a motorcycle, the penalties provided for under section 123F will be the same.

Now, Madam Speaker, sometimes motorcycles speed past Police Officers when there is road check and the speed radar camera is not always available to identify the offenders. I hope to see more police on the beat and they need to be properly equipped. Police should be visible and not spring like springboks from nooks and corners, with the radar camera, they can provoke accidents. The dual system of penalties points and speed camera, as I have stated, was part of an old encompassing infrastructural system. Under the previous Government, exams to be driving instructors was conducted by MES and pressed upon the Minister before setting up *auto/moto-écoles*, the Ministry should debar those instructors who are acting fraudulently.

Madam Speaker, palliative measures are enunciated in the Schedule and amendment in the Principal Act. This point has been canvassed because there is the fear that it may lead to corrupt practices. We know the saying: 'Offenders do not beat the system, if the fine or penalties are not too stiff'. We should ask ourselves why people evade paying taxes when the rates are very exorbitant. In his intervention on the Road Traffic (Amendment No. 2) Bill (No. XXIV of 2016, hon. Alan Ganoo referred to the three stages of learning to drive followed a study conducted by UK drivers' behaviour research group. I started my intervention by referring to the emphasis that should be put on cognitive and behavioural changes to improve driving skills.

Let me conclude by reminding our friends that all roads from Quatre Bornes to Belle Rose lead to Palma and Pierrefonds. As a linear town with an increasing number of high-rise buildings, everybody is competing with for spaces, pedestrians, cyclists, motorcycles, street cars and buses. Parking, dropping and picking up of passengers is a split headache. Cross-ere is accident-prone sites at night because there is no light. There are potholes in main side streets and the second biggest town deserves to be roadworthy.

Another issue which is becoming of great concern is the issue of road rage, and this has to be addressed. I would impress upon the hon. Minister to also conduct an awareness campaign for what we call car dooring, and this has been a cause of major accidents.

There is one thing that we do not do in Mauritius, which they do in UK. New holders of driving licence pay a high insurance premium and, in itself, it is a deterrent. I think this should be applicable in Mauritius. It reinforces the good behavioural conduct, and as they become responsible drivers, the premium slides. Madam Speaker, this is an issue that is cross cutting. There is no political differences on an issue where lives matter, and since life matters, let us come together, put up a common front, wage an intensive war, but address the problem where it deserves to be addressed. And it is a fundamental problem. Let us wage war on a scourge which is afflicting and affecting the nation. We call it drug, and it is a war that we have to win.

Thank you very much.

Madam Speaker: Hon Bodha!

(11.05 p.m.)

The Minister of Public Infrastructure and Land Transport (Mr N. Bodha): Madam Speaker, I would really like to thank all the hon. Members who have participated in this very crucial debate. In fact, it is a very complex and sensitive issue. It goes to the core of our life and the value that we attach to life. There have been some very pertinent analysis; there have been some very valid contributions and some very valid suggestions.

The Road Traffic Act, from what I have been told, dates back to the 1960s, and it is true that I have come to this august Assembly for the third time now to bring amendments. But I think I will have to come again because this is, as I said, a very, very complex issue, very sensitive, and it relates to life. Any percentage in the number of crashes or the number of killed is saving lives, and we know very well that each accident is a tragedy. I have always said life is never the same before and after an accident.

I would like to give a few figures for us to understand what is happening. In fact, between last year and this year, for the same period, we have a number which is 8+8 as regards to last year, in the total number of persons who have been killed. But, then, when we focus on these statistics, what do we see? For pedestrians, for example, it was 26; this year, it is 23. For passengers, it was 14; this year, it is 12. For cyclists, it was 7; this year, it is 2. For helpers, it was 2; this year, it is 1. Then, where is the increase, Madam Speaker? The increase is that riders of motorcycle, which was 26, has risen to 37, and pillion riders, that is, those who are at the back, which was 5, has risen to 9. I further focus on the statistics, and let

us go now on age. Between 16 to 25 years, last year, at this period, we had 25 victims; this year, we have 34.

So if we fork narrow down on the statistics, we come to a conclusion that there is a real problem with young people riding motorcycles. Now, whether they are riding motorcycles under the influence of alcohol or synthetic drugs, this is the big question. There are many issues which have been raised by the hon. Members as regards enforcement by the Police, education, engineering of the roads. I think we are right on track on all this; we are fighting, we are doing our best for enforcement, for education, for engineering. But then we have to understand what is happening, and I see that most of the hon. Members have addressed this issue of alcohol and drugs, Madam Speaker.

Let us now take some other statistics. When it comes to alcohol, from December to June this year, the number of contraventions established by the Police is 2,354. The number of cases of failing to submit to alcotests - because hon. Baloomoody addressed this issue - was 239, that is, about 10%. Now, the number of cases where the Police went to court to summon drivers to show why an order of temporary disqualification should not be made was 1,683, and out of these, the courts gave a judgment in 600 cases. And you know what happened, Madam Speaker? The number of drivers who have been temporarily disqualified by the courts is 271, but the number of applications for disqualification that have been set aside and struck out by the court is 316, which means that on every 100 cases where the Police went to court to summon drivers to show cause why they shouldn't be disqualified, the court gave a positive judgment only in 40% of cases.

And I come to the judgment in this case which was mentioned by hon. Baloomoody. All of us are shocked by the fact that the sentence was only one month, and hon. Baloomoody addressed the issue of an amendment. I have talked to the Attorney General. From what I have been told, the DPP is appealing against this judgement and we are expecting that the Supreme Court will give sufficient new sentencing guidelines when it comes to these offences, Madam Speaker. So, the Judiciary has its role to play, the courts have their own responsibility when it comes to proportionality - I understand this - and when it comes to sentencing as to the gravity of the offence, Madam Speaker.

Now, when it comes to this issue of the penalty point - and there has been a lot of debate about this. We came here and, at that time, there was consensus here, except for a few members saying that because of double jeopardy, that system had to be re-engineered. Let

me say one thing now. Under the penalty point system, for 18 months, nine drivers were disqualified. Under this system, for the same period, 50 drivers have been disqualified. In fact, this system is more severe, Madam Speaker. It is more severe, and now that we have reduced the cumulative offences from six to five, now that we have come with this notice, which is compulsory, and the other notice that after three offences you are going to be notified that you have committed three offences, I am convinced that the system will bring better results.

The cumulative road traffic offences - number of persons who have been convicted for one offence, 46,000; two offences, 10,000; three offences, 3,000. And the Police will go to Court, as I explained, to request for a disqualification. Hon. Dr. Boolell mentioned that in France, for example, when you have been caught with drink-driving, your licence is suspended automatically, right away on the spot and you have to leave your vehicle. You have to ask somebody else to come. This was what was suggested in the law, but then the Court said that it is an anti-constitutional clause because it infringes the right to movement.

Madam Speaker, I would like to answer a few issues before I come to the drink-driving and to the drug testing. We are coming with the driving licence scheme which will be reviewed to provide for medical fitness of various categories of drivers for those above the age of 60. And as regards to engineering, we have made a survey of 400 km of existing roads, and it was done by a Swedish company to see to it that we have a survey of the dark spots and that we can re-engineer those roads so that we have less accidents.

We are upgrading road signage along the M1 and M2 to international standards. And there has also been this issue of point-to-point average speeding, because speeding is the number one cause for accidents. We have been studying this system because we know that just before the camera, we slow down and just after the camera, people speed up again. Madam Speaker, there was also this issue of Rodrigues about the survey of the roads to be classified. So, we are going to do that.

Now, let us come to the drink-driving issue. A decision has to be taken. It is a question of policy and philosophy. The hon. Prime Minister and Minister of Finance and Economic Development came, in the Budget, with the policy of zero tolerance to alcohol. The question is we are not restricting the pleasures of life to the Mauritians, as hon. Dr. Boolell would have said.

(Interruptions)

Small pleasures! We are not preventing people from having a drink. We are not preventing people from driving. What we are saying is: “You can’t drink and drive”.

(Interruptions)

It is not a question of how much you can drink to be able to drive. This is not the philosophy. It is not the issue that you can drink up to so many milligrams of alcohol in 100 milligrams of blood. That’s not it! It is zero tolerance. That is you drink or you drive. Now, in England a barman in any pub who has been serving someone, a client two or three drinks, becomes an accomplice and commits an offence to the law if he allows that person to take his key and to drive home. He has to take the key, call a taxi and send him home, and then the day after he comes to collect his car. In Australia, somebody who is a passenger in a car, and when he knows that the driver has drunk too much, can become an accomplice if he sits at the side of the driver and allows him to drive.

So, Madam Speaker, I think it is not a question of small pleasures of life. It is a question of losing life. It is a line which we have to divide. It is a divide that we have to decide on. We have taken a decision, and that is the decision. It is too draconian. It may be too severe. But it is the policy that we have decided. And why we have chosen 20? It is because of the...

(Interruptions)

The issue, Madam Speaker, is the 20. It is not drinking up to 20 to be able to drive, or to 30 or 50? No! 20 is the evidential certainty that the testing can provide for an offence to be committed. So, it is a question of not drinking. It is a question of having no alcohol. Now, the 20, and I have explained why it is 20. It is because it provides for the presence of alcohol and also taking into consideration what we call the endogenous alcohol from the body, intake of medicines, eating food containing some amount of alcohol, and as we said, we need to stress that the false positive results means to report the presence of alcohol in a sample when in fact it is not the present. It is a question of certainty. It is a question of certainty that you should have no alcohol and then you can drive.

Now, when it comes to the drug issue, I am totally in tune with all that has been said on both sides of the House, and I thank all the hon. Members who have come with a number

of suggestions. So, let me explain the two instruments. The two instruments will be used in combination to cover the whole range of drugs. They will confirm the presence of drug and drug metabolites in body fluids, including synthetic drugs. The liquid chromatography high resolution mass spectrometry has already been procured by the FSL. The liquid chromatography tandem mass spectrometry, for that equipment tenders have been launched, and the equipment is expected in August, September and the tests can be done.

Now, as regards to the law, we had three solutions. One was to have some of the amendments in the Finance Bill next week, one or two because it was mentioned as regards to speed driving, and then as regards to alcohol. The second solution was to bring the Bill as it is now, and the third was to wait for the Attorney General's Office to draft the Dangerous Drugs (Amendment) Act, and then the Road Traffic Act. And then to come is this omnibus legislation. We have said that it is better that for a matter of urgency, let us do this, and as soon as possible, we are coming with the other law.

Now, what is going to happen with the other law is that we will have exactly what hon. Mrs Selvon mentioned some time back, what we call, the 'field impairment test' which is, in fact, a first test. After this test, and if the Police officer finds that there may be some substances and some drugs, then he can take the person to the hospital and have, what we call, the roadside kit applied. The roadside kit applies to a limited list of substances. And if it fails the test, but still the Police officers believes that that person is under the influence of any drugs, then it takes a sample of blood and he goes to the FSL. So, this is what we are going to apply.

As regards to the law, so the law is coming. In the meantime, the Forensic Science Laboratory has already ordered the equipment. One of the equipment is here. And the other equipment is coming. The third aspect is as regards to application by the Police officers. So, I have been talking to the Commissioner of Police, and we are in the process of having all the specifications of the equipment for the application of the test to be done now so that as soon as the law comes in, most probably at the beginning of the next session, we will be able to be in a position to start the test as soon as possible. I totally agree that this drug testing is very important because, as I said, when we see the statistics, the young people are really very vulnerable to drugs and to dangerous driving.

Now, we have 150,000 motorcycles in Mauritius. And we have people who have been driving a motorcycle for the last 40 years with a learner. This is something which we have

inherited. This is Mauritius! So, we are going to see how we can have some sorts of a test, some sorts of training. But when it comes to new drivers now, we have come with the *Moto École* and when we came with the *Moto École*, when there were 100 tests, I think 90 failed. And some people said that the tests are too severe. Again, it is a question of the value of life. So, we are now comparing with the compulsory log book, you have to go to a *Moto École* and then you have to pass the test, because without going to a *Moto École* you will not pass the test.

I think that with regard to the standards of the motorcycles, we are taking care of that, I have been talking to my colleague, the hon. Minister Ganga with regard to euro standard. We should not have motorcycles which cannot be exported to Europe, but we exported to Mauritius. Again, for the helmet it is the same. We have the specifications so that all these specifications have to be met.

Madam Speaker, I will end here because we will come back to this issue. I sincerely hope that with the measures that we are coming with and when it comes to education, I have to say a few words. Road safety is already a compulsory subject matter at the primary school and it is in the curriculum of the secondary school. Can we make it more prominent in the curriculum? We will discuss the matter with my colleague. I think that education, at the end of the day, is the solution, but deterrent and enforcement is a matter of urgency and this is why we have come with the Bill.

Madam Speaker, at the end of the day, it is a question of responsibility. We are all responsible, the law makers, the law enforcers, the educators, the Courts and the Judiciary and the public at large. I have always said it is a question of driving culture. The driving culture is that we should be on the defensive side and we should drive not only for ourselves, but we should drive also respecting the other road users, because, at the end of the day, it is a question of sharing the road space, but also respecting the life of others.

I hope I have answered some of the queries, Madam Speaker. So, I will end here. Thank you.

Question put and agreed to.

Bill read a second time and committed.

COMMITTEE STAGE

(Madam Speaker in the Chair)

The Road Traffic (Amendment) Bill (No. X of 2018) was considered and agreed to.

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

Third Reading

On motion made and seconded, the Road Traffic (Amendment) Bill (No. X of 2018) was read a third time and passed.

Second Reading

THE FINANCE (MISCELLANEOUS PROVISIONS) BILL

(NO. XI OF 2018)

The Prime Minister gave notice of his intention not to move the Second Reading and the other stages of the Finance (Miscellaneous Provisions) Bill (No X1 of 2018) today.

MOTION

MOTION OF NO-CONFIDENCE - ATTORNEY-GENERAL AND MINISTER OF JUSTICE, HUMAN RIGHTS AND INSTITUTIONAL REFORMS

Mr S. Mohamed (First Member for Port Louis Maritime & Port Louis East):

Madam Speaker, I beg to move the motion standing in my name and which reads as follows –

“This Assembly has no confidence in Honourable Maneesh Gobin in his capacity as Attorney-General and Minister of Justice, Human Rights and Institutional Reforms, in view of his role in the matter opposing Jayeshwur Raj Dayal, CSK, PDSM, QPM, to the State of Mauritius with regard to his claims following his removal from the Office of Commissioner of Police on 31 January 2000.”

Madam Speaker, I have come up with this motion that stands in my name and I have had the opportunity of speaking to many friends on both sides of the House ever since this motion was sent in and circulated with the Commission and leave of you, Madam Speaker. The question in the mind of all those on both sides of the House is the following. What will

this whole motion be about and how exactly will I try to present this motion to this Assembly?

Let me, from the very outset, say the following: the hon. Member who is the Attorney-General of the Republic of Mauritius is someone whom I have known for many years. I have not come with this motion to the House *de gaité de coeur*, most importantly because I know the hon. Attorney-General personally, I have had the opportunity of not only knowing him as a politician, but also as a Member of the Bar, and we have even travelled together, we have shared moments of friendship together, conversations, interesting conversations, and that is why it was not an easy decision for me to come up with this motion. I will endeavor during this presentation to ensure that I will keep it to the principles that I adhere to, one may not agree with what my point of view is, as far as the law is concerned, but, I think, it is important that I put forward my point of view which is, in fact, the point of view of many in my humble view in the country, that there is a decision that the hon. Attorney-General has taken in his advice to Government that should not have been taken, and I will explain how this decision was reached at and why.

In my humble view, the hon. Attorney-General should not have come to that decision and the advice that he tendered to Government was in my humble view, the wrong advice. As you will note, this has nothing to do with the person of the Attorney-General as a human being, but it is only a matter of principle and the advice that is delivered that I strongly object to.

I have always found that whenever there is a Motion of No Confidence, forgive me if I say that, but in my experience of presenting Motions of No Confidence, I find that this forces someone to go and make a lot of research. I believe that it is quite an interesting manner of learning a lot of things. The previous Motion of No Confidence I brought in, I learnt a lot about parliamentary procedure by reading what happens in other jurisdictions. And in this particular Motion that I have come up with, unfortunately, the last one could not go ahead because the President of the Republic reigned before I could even come up with the Motion. But, as far as this one is concerned, it has made me go into a lot of reading and allow me to share it. But I think it is important for us to understand and for all those who maybe do not realise what is the role of the Attorney-General, suffice it to say that it is easy; one goes to the Constitution and one understands what exactly is the role of the Attorney-General. Apart

from being a Constitutional post, he is, indeed, the principal Legal Adviser to Government and holds the office of a Minister.

The Attorney-General's Office is also responsible for drafting a legislation, vetting of all contracts, agreements which Government is a party is party to, including international agreements, treaties, conventions. Those are just but a few of the important role and function of the Office of the Attorney-General, and the Attorney-General himself.

I have also read very briefly a publication from the House of Commons, Madam Speaker, and it is entitled 'Constitutional Affairs Committee - Constitutional Role of the Attorney-General' which is the fifth report of session 2006-2007. An introduction of this particular document, which is in the first chapter itself, I read and with your permission, I quote –

Professor Jeffrey Jowell stated -

“One set of relationships in our democracy that has been subject to the most dramatic alteration in recent years is between politics and the law; the appropriate balance between those decisions which are the province of politicians and those which belong to the law is one of the most fundamental question in all constitutional theory and has great practical importance.”

What I am trying to get at here is clearly the hon. Attorney-General is an elected Member of this House. He holds the Office of Attorney-General, but he is also an elected Member of the House. And as the Constitutional Affairs Committee of the House of Commons has come in the publication of 2006-2007, the Fifth Edition, it is a balancing exercise that one has to carry out. That is not only a balancing exercise that has to be carried out in our jurisdiction, which is also a common law jurisdiction, but it also has to be carried out in any common law jurisdictions, but also non-common law jurisdictions.

For instance, here, the balancing exercise is the Attorney-General has to keep his independence to be able to advice Government and should be able to leave aside the fact that he is an elected Member of Parliament belonging to a political party, thereby his political role. Not an easy task to be able to do this balancing exercise. We have had many Attorney-Generals in our country and many very esteemed Attorney-Generals who have taught us through history that it is, indeed, possible to balance the two and to put forward the most important element which is the independence of the role in order to be able to advise

Government in an independent manner and to cast aside and to put in a second position and not to give importance to the role of a politician that the elected Member also is.

Why I believe that it is a very important issue that we address, it is because it has, as an introductory element, another piece of publication that I have come across is a book entitled: 'A Higher Loyalty: Truth, Lies and Leadership'. It is a book by James Comey and the author's note makes very important remarks which I believe is of relevance to our country as well, and I quote –

“We are experiencing a dangerous time in our country with a political environment where basic facts are disputed, fundamental truth is questioned, lying is normalised and unethical behaviour is ignored, excused or rewarded.

For some of the crooks, liars, and abusers, there has been a reckoning. For others, there remain excuses, justifications, and a stubborn willingness by those around them to look the other way or even enable the bad behaviour.

Ethical leaders do not run from criticism, especially self-criticism, and they do not hide from uncomfortable questions. They welcome them.

Those leaders who never think they are wrong, who never question their judgments or perspectives, are a danger to the organisations and people they lead. In some cases, they are a danger to the nation and the world.”

The author in this book, Madam Speaker, talks about ethical leadership and what I would like us to do as hon. Members of this House, even though I do understand that I am here fighting a very difficult fight because I have, indeed, a very steep slope in front of me; that of convincing Members on all sides of this House of the importance of this Motion. Others may decide that they will stick to party political discipline, whatever be the importance of the Motion and decide to vote against it, just for the sake of party discipline. That is a choice and a right they have, but this is a choice and right. However way you exercise it, history will never forget and posterity will remember!

Responsibility sometimes is put before you in a moment like this and it is up to you, hon. Members, through you, I ask them, Madam Speaker, that it is not something that they should take lightly because, at the end of the day, it is not numbers that count, but it is the truth that counts. At the end of the day, it is not a question of winning votes in this Assembly that counts, but it is a question ethical leadership, that is, it is not going to shy away from criticism, but will rise up to the challenge. It is important in my humble view to set up the

background because when I say in my Motion very simply, the role of the hon. Attorney-General in the cases that Jayeshwur Raj Dayal, CSK, PDSM, QPM, decided to lodge against the State of Mauritius, what was the case is about? And as the Motion says, it is about his claims following his removal from the Office of the Commissioner of Police.

At some stage, in this particular case, the person referred to in my mission, Jayeshwur Raj Dayal was Commissioner of Police. That is known to one and all. At some stage, there was a Commission of Inquiry that was set up. Following the Commission of Inquiry and whatever be the findings of the Commission of Inquiry, also they was a Tribunal that was set up. The Commission of Inquiry was presided by the ex-Chief Justice, Bernard Yeung Sik Yuen and the Tribunal was presided over by late Rajsoomer Lallah, former Chief Justice.

I have had the pleasure of reading through the proceedings and the report, most precisely the report of the Commission of Inquiry. I must say that it is the first time I have read it, even though it was published many, many years ago. It is after those facts that the former Commissioner of Police was fired from his job, if I may put it that way. Finally, it was based on the findings and recommendations of the Tribunal set up by Government, by the President of the Republic.

But what really surprised me was the statement of the hon. Attorney General who chose not to keep quiet. I am not here to blame his choice or to criticise his choice. He chose and it is his right to go out in public and have a Press conference. He held the Press conference, Madam Speaker, to explain his decision to advise Government that it would be fair and good decision to pay the former Commissioner of Police a sum of money in full and final satisfaction of all his claims. I have taken the pains of listening to his Press conference and myself noting down every single word the hon. Attorney General had stated, and he said the following. He started out by saying -

“This is not a case of payment of damages *ou bien* interest.”

He says and I quote -

“J. R. Dayal, c’est avant tout dan sa case la ene fonctionnaire. D’apres so l’age, li ti pu retire juillet 2009. Donc, le temps ou prend 1999 kan Ramgoolam, pu ban raison ki ti ena dan so latete, prend sa ban decision la, jusqu’à 2009, li faire 10 ans. Le temps ou prend 10 ans ou mutiplier par so la paye Commissaire de Police, so la paye nu tu coner sorti dan PRB report. Le temps ou multiplier li par 10 ans, c’est la ki ou alle

gagne le chiffre de R 15 millions. Bien sûr, c'est l'argent du contribuable, mais c'est la paye d'un fonctionnaire, vous autres. »

Now, in this Press conference what the hon. Attorney General has stated and explained - because he dropped his shield, if one may call it a shield, he has decided to go in public and explained his decision why did he advise Government to sign this agreement with now hon. Raj Dayal. In there, I understand that he states, according to him, that the decision to terminate the employment as Commissioner of Police of Raj Dayal was wrong. What he tries to put forward is that the decision to terminate his employment was a wrong decision. What he says - and I believe here that this was the difficulty of trying to balance his role as a politician, elected Member, Party member as opposed to that of the Attorney General. What went through the head of the then Prime Minister, Ramgoolam, God knows! This is what he is telling us. What he is trying to communicate to the public is that it was a decision of the Prime Minister. He does not refer to the sitting of the Tribunal. He does refer to the decision of the Commission of Inquiry as though it never happens, but in actual fact, Madam Speaker, it did happen.

There was an indeed a Commission of Inquiry. There were indeed findings in that Commission of Inquiry. Findings, and not all of them were deleted or found to be wrong. At a judicial review application, now hon. Raj Dayal applied for it to be reviewed, and only one part of it was reviewed because it went outside the mandate of the Commission of Inquiry. But 90% also was still there on the books and it was tabled in this Assembly, and I found a copy in the Library. It makes a lot of interesting reading. What the hon. Attorney General says here is that, for him, it was a wrongful dismissal matter. He should that have been dismissed. He should still have been Commissioner of Police and he would have continued to work for the next 10 years, that is why he advised Government that this person should be, therefore, paid his salary for the 10 years that he should have worked until his retirement age.

In fact, what we have is an Attorney General that defies the findings of a constitutional Tribunal set up by the President of the Republic under the powers given to him by the Constitution. An Attorney General that decides *de passer sous silence* the report of Rajsoomer Lallah as the person who headed this Tribunal. This is a Tribunal set up under the Constitution. The Attorney General has found it fit to go totally against this constitutionally set up Tribunal and its findings. The Attorney General decides to go totally against the findings of the Commission of Inquiry, once again set up by virtue of the powers, under the

Constitution, by the President of the Republic as though whatever has been found in there after months and months of hearings is wrong. It does not exist; it never happened, and for him, he believes that it was fit and proper to criticise and cast it aside as though it never happened.

When I read the complaints that were lodged by Jaweshwur Raj Dayal against the Commissioner of Police, the State of Mauritius, those were complaints that were lodged in 2014. In one of them, Madam Speaker, he makes a claim for Rs90 m. and in another of them, it is only a matter of adding another zero or more and going to a billion of rupees in 2014. When I looked at the defence that was filed by the Commissioner of Police and the State of Mauritius in this matter, there was a point of law that was raised. *En d'autres mots, Madame la présidente, le commissaire de police comme défendeur* and the State of Mauritius as second defendant in one case and, in another matter, the State of Mauritius, in all the matters, those responsible for the State raised the defence. *Il y avait une défense*. The defence was of the action of the Member was time-barred. *Ce que cela veut dire, c'est que* under section 4(1) of the Public Officers Protection Act, there is the need for the person who wants to complain of an act, of a wrong, to enter that case - it is a mandatory provision - within the two years of the wrongful act.

You have the State Proceedings Act or the Public Officers Protection Act and there is also the need to serve *a mise en demeure*, in other words, a written notice one month prior to entering his action in line with, once again, the Public Officers Protection Act. In all those cases, it was time-barred. So, indeed, there was a strong defence. There was a good defence. There was a defence that could not be beaten. I just also wanted to look into that, Madam Speaker, and I wanted to know, ever since this new Government has come into power, how many cases have gone before the Supreme Court where this is the very defence that was put forward by the State under the Public Officers Protection Act, the State Proceedings Act, medical negligence, and I have come across many cases.

In one case of the Supreme Court - the case of Seewoosungkur versus the State - 2016 Judgment, in this particular case, it was about someone who arrived from Dubai and was arrested. He was a Police Inspector arrested at the airport and interdicted from duty, prosecuted before the Intermediate Court and, finally, he enters a case against the State and the defence that the State uses is, once again, section 4 because you did not enter your case

within the two years. And what does section 4 say? And it is important to remember, Section 4 says that –

“Every civil or criminal action, suit, or proceeding, by a person, other than the State, for any fact, act or omission, against a –

(a) public officer (...)

(b) person engaged or employed in the performance of any public duty; or

(c) person acting in aid or assistance of the public officer (...)

shall - and that's important - under pain of nullity, be instituted within 2 years from the date of the fact, act, or omission which has given rise to the action, suit, or other proceeding.”

Under pain of nullity, his case was thrown out simply because he entered the case outside the time limit.

Then, there is the other case of Somraj Ramnarain versus the Ministry of Health and the State of Mauritius. In that case, it was the plaintiff who had been feeling pain in his right knee. He underwent surgical operation in a State hospital and what did he find when he was taken to a clinic following the operation, that in the X-Ray, it revealed that a presence of a foreign body, namely a scalpel blade was still in his knee, but the State, once again, in spite of that person having a scalpel blade in his knee, medical negligence of the worst type, the State did not win its case on the merits, *ils ne sont même pas aller sur le fond de l'affaire, mais* on an interlocutory judgment. Once again, section 4 of the Public Officers Protection Act, under pain of nullity, ‘sorry, you cannot go ahead with your case, under pain of nullity, the case was thrown out. And, once again, Abdul Siddick Raffick same case, negligence again under pain of nullity, case thrown out 2015. Mooneeah another case, Public Officers Protection Act, thrown out under pain of nullity. Barderaj Maunthrooa - I can see my friend Bhagwan getting a bit – versus the Comptroller of fire services, once again, he entered a case and he was thrown out simply because of section 4 and the issue of having to serve *mise en demeure* which in all three cases that Raj Dayal entered against the State, in none of them had he served the *mise en demeure* within the period described and in none of them had he entered the case within the 2 years.

But in other people's cases, the State and another one Bunna versus the MRA – too bad, you did not enter your case within the period, the notice *mise en demeure* was not sent, it was thrown out, the Supreme Court and here I have only referred to a few cases and the reason why I am not going to refer to even more and print out the rest is because my ink in my printer was finishing and there are cases who are still there, there were 3 pages of cases listed, Madam Speaker, where the State between 2015 and 2018 have used that as defence. Not even gone on the merits, but my question therefore is, when there was such a good defence, when the acts that he complains of date back to more than 20 years from today but in 2014, it dated clearly more than 2 years after the fact when he failed to serve a *mise en demeure*, if a plea was prepared, *s'il y avait une défense* and this defence when prepared, Madam Speaker, it is prepared after advice is taken obviously at the highest level, if not be the Solicitor General himself would give that advice and this plea will not be prepared and will not be signed by the Principal State Attorney if there is no defence. This is good defence in law. So, if this was good defence in law, in 2015, the defence was filed, in October 2015, this defence was filed, Madam Speaker.

This was prepared by the Principal State Attorney and it is here signed by the Deputy Chief State Attorney and Attorney for Defendants and at no time in those cases did Raj Dayal ask for salary should be paid to him between 1999 and 2009, at no time does he ask that salary be paid for him between 1999 and 2009, he did not ask for that, Madam Speaker, he simply asked damages and interest, he simply asked because his personal effects will never be returned to him. He asked literary for damages and interests and none of his claims are for unpaid salary, none!

So, by what means of miracle, this is serious, this is something I fail to understand all of a sudden there is an agreement that is entered into between Mr Jayeshwur Raj Dayal and the State and others referring to all the cases he has entered into and in there, this agreement paragraph 3, I read -

“Had he not been removed from office, he would in the normal course of things, had remained in office until 07 July 2009, date on which he would have retired from office on grounds of age.”

What, in fact, this paragraph is saying is that for all intents and purposes, he was never fired as Commissioner of Police; it is here the State stating that for them he should never have been turned away from his position as Commissioner of Police because they not

only paid him his salary for 10 years but they went as far as to pay his pension, vacation leave, passage benefits, compensation for pension as from 2009 as though he was all this time still in the employ of the State as Commissioner of Police. But what I find interesting is in the Press Conference of the Attorney General is the following, he goes on to say it was not him that obviously computed the salary, he was simply, he says here –

“C’est le Accountant General qui compile en Septembre 2013.”

So, this is the political explanation.

“It is not us. It was computed at the time when the Mauritius Labour Party was in Government. *En Septembre 2013*. It is not us. It was computed (...).”

And when one looks at the agreement, it refers to another paragraph here by letter dated 03 September 2013 the Accountant General informs the then Commissioner of Police that he has computed plaintiff’s entitlement which is *ex-gratia* lump sum in the amount of Rs15,160,782.28 consisting of all what I have said, gratuity, pension, reduced pension, etc.

By letter of 28 October 2013, the then Commissioner of Police, on behalf of the State offered the sum of Rs5,723,769.68 as a lump sum payment which it was declined on 09, the 26 and 27 of May, he declined that offer in 2013. Following him declining the offer, 3 cases are entered, Madam Speaker, and those 3 cases are entered and a good defence is putting in in October 2015, but this agreement is entered into later on. When? It is entered into on 05 March 2018. Why is it, when there was a good defence in 2015, what happened between October 2015 and March 2018? What happened?

Why is it that the defence that held good, that guaranteed that we, as the custodians, have to ensure that we protect and carry out our duty in a reasonable manner, in a judicious manner, that when we have the responsibility of money belonging to the people of Mauritius in our hands, that we ensure that we don’t just, as sometimes said by the Rt. hon. Minister Mentor, he likes to use that word and I love it - ‘*bangoler*’. I remember that, he used to say that and I love it when he says it, and he says it so well. And he is right; we should not ‘*bangoler*’. I remember that from 1995 by the way. I learnt a lot.

(Interruptions)

And the good thing is that he remembers how he used the terminology and about whom. That’s fair enough! But I love the way he says it. Even now, I love the way he says it!

(Interruptions)

It is not a goal, it is a question of me loving it. It is not a game here. Winning! I love the way he says it! Take a compliment! But, what I don't understand is it should not even just be words that apply to only one side of the House. No one should 'bangoler'. And in this particular instance, when there is such a good defence, it is 'bangoler' when you go and pay someone Rs15 m. or so. I remember when I was in Cabinet between 2010 and 2014. At no time did Government have the right to pay for anything in a claim or come to an agreement in a claim. If the claim was for more than Rs1 m. you had to have approval of Cabinet. Fact! And in this particular case of Dayal, at no time did Cabinet approve any payment whatsoever to him, be it for Rs1 m., Rs5 m., Rs10 m. or whatever. Nothing was taken to Cabinet. And Cabinet never approved anything because at no time was there any request for Cabinet to approve. Fact!

(Interruptions)

Never has Cabinet been approached between 2010 and 2014 for that and at no time have we approved anything. Never! Now, whatever offer there might have been, he rejected it. And the offer, if there was, at no time did Cabinet agree to it. Had there been an offer that was accepted for Rs5 m. or so, it would have had to come to Cabinet. Cabinet would have had to approve it. And once Cabinet gave its green light, then and only then there would have been a proper agreement with Mr Raj Dayal for payment, and this was never the case.

But in this particular case, is there a Cabinet decision to allow the payment of Rs15 m. or so in 2018 to the former Commissioner of Police? And what disturbs me, Madam Speaker, is the following, and as I said, the background is very important. It is not a simple question like the hon. Attorney-General is trying to give the impression. He gives the impression that simply he should not have been fired. He does not say that there was, as I said, the Commission of Inquiry. He does not say there was a tribunal. What about the Commission of Inquiry! Why is it that the hon. Attorney-General forgets about that part when he comes to his Press conference? Did he not think that it was important to advise Government about the findings of the Commission of Inquiry when deciding whether or not to pay? Did he not think it was important for the State Attorney when they prepared their defence? Because they denied the fact that he was wrong fully terminated.

In the defence that was put in October 2015, it is denied. His amendments are denied. The State Attorney prepares a defence and denies that he was wrongfully terminated. But here, I think it is important for posterity, and in order to substantiate my motion to be able to say what is the role he played and what is the role he should have played. How should he have played it? He should have taken into account very important facts that happened in the Commission of Inquiry, that is, public document, is now in the public domain and has already been tabled many years ago on the Table of this Assembly. And the findings are of utmost importance.

Before I get to the findings, the Supreme Court of Mauritius, Supreme Court judgement 2010, record number 69277. This was a case between Raj Dayal versus the Attorney-General. In that case, the co-respondent was Rajsoomer Lallah, QC as co-defendant. In that case, it was a claim where Raj Dayal was claiming that there was a refusal of the President of the Republic to furnish him with a copy of the report of the tribunal which was appointed under section 93 (4) of the Constitution. And in his Pleint, in that judgement, he, himself, Raj Dayal, says that this document he should have it because that document recommended that he should be removed from the office for misbehaviour. He, himself, says it in his application. He applies for the Supreme Court and the reference is 2000 SCJ 210, Record No. 69277. He makes an application and the co-defendant is Rajsoomer Lallah QC who presided over the tribunal that was set up under 93 (4) of the Constitution. And he says that the recommendation of that Tribunal was that he be removed from office for misbehaviour. He knows what is in that report, in that recommendation. There was objection on the part of the State. The State said: "No, you are not entitled to that report." A preliminary objection was raised stating that he should not obtain that report. And the State won the case.

I have to congratulate the counsel who appeared for the State against Dayal in that case. It was Maneesh Gobin. He appeared in this matter for the State against Jayeshwur Raj Dayal and the judgement is dated 05 July 2000. He appeared in a case against. And not only that! He also appeared in the Tribunal before Rajsoomer Lallah for the State. He was in the team together with the late Judge Bhaukaurally who prepared the case against Raj Dayal at the level of the Tribunal where the recommendation came out finally.

In another words, if we were to simplify it, hon. Maneesh Gobin as State counsel sustained the charge against Dayal before the Tribunal. And today, the same Attorney-

General goes for a Press conference and he says that he should never have been removed from office. Now, I am having difficulty understanding the state of affairs. The difficulty is very simple. One Barrister cannot play two sides. You can't! This is called conflict of interest. You cannot appear for the State and prepare the case together in a team, appear in a matter in 2000 on the side of the State against one party, and then later on, come to appear for the same party as Attorney-General, as political friend, as brother in the same matter. This is conflict. And if this is the case, it is the case, then it would have been mandatory upon hon. Maneesh Gobin to have declared his interest. He should have declared his interest not simply like that. He should have had a register or a written declaration of interest in Cabinet before he goes to Cabinet to get Cabinet's green light in order to pay Rs15 m. That is simple.

Now, what I also have come across here is very worrying facts to substantiate it. Why is that the hon. Attorney-General black out the findings of the Commission of Inquiry? Was it not important in deciding whether to pay or not, to take into consideration what the findings contained? Was it simply not a way to ensure whether the dismissal was justified or not? How do you ensure that the dismissal was justified? He should have personal knowledge of what it contains, because he was at the State Law Office at the time, even of the Disciplinary Committee, the Commission of Inquiry.

Now, I read very important passages Madam Speaker, that he should have taken into account before advising Government. I read from page 10, paragraph 1.1 of the Commission of Inquiry Report –

“In spite of all the trumpet blowing and grandiloquence of the commissioning allocution, it is rather surprising that the Commissioner of Police [CP] would have it, before the Commission, that his role in the ultimate installation of that gate, was measurably modest.”

I know it's late hour Government strategically decided that they should be taken at this hour, which I respect. I respect.

(Interruptions)

I respect.

(Interruptions)

I said respect it.

Madam Speaker: Order, please!

Mr Mohamed: I respect it. I am here reading a very important part, and this is what I talk about ethical leadership. This is what I am taking about ethical leadership. Some people would understand what it means, some would not. I am here reading at page 185, paragraph 6.1 –

“Mr Ah Kiow told us that the CP, Mr Dayal, saw him in his office at Line Barracks some time before the tenders for 100 motorcycles were launched. CP told him that the Police would be buying 50 motorcycles with a possibility of a repeat order. CP asked for a personal commission of Rs8,000 and an additional one for Rs3,000 for the Quartermaster, Mr Naiken, per motorcycle.”

This is what the reports says –

“We must add here that all the disclosure about Mr Naiken’s commission came at a second stage, unprompted from the Commission, but after Messrs Man Hin had retained the services of Mr Rajahbalee, of Counsel, at the sitting at which they were to face CP. The confrontation however never took place, as we shall explain, because CP, in our reckoning, showed the white feather.”

And it says here –

“Messrs Man Hin cleared their cheque (Rs9,996,000) on 29 January 1996 for the sale of 40 motorcycles. On the following day, they drew two cash cheques of Rs320,000 and Rs120,000 each which were exchanged at the State Bank of Mauritius [SBM].

Mr Ah Kiow stated that he personally remitted the sum of Rs120,000 in cash to Mr Naiken when the latter called at the office of Messrs Man Hin in Port Louis.

With regard to CP’s cut, Mr Clément Man Hin stated that he met CP at a pre-arranged meeting at the Continent Filling Station at Phoenix. CP came in his car accompanied by one of his sons. Mr Man Hin then followed CP’s car in his own car, meandered through several off track roads until he reached CP’s house. The sum of Rs320,000 was then remitted to CP in cash.”

Was this challenged before the Supreme Court? Was he successful about challenging that part at the Supreme Court in a Judicial Review? No, he was not. It is still in the report, and the Supreme Court has stated that this will stay in the report. And then he goes on –

“With regard to CP’s share, Mr Thierry Man Hin, Mr Clément Man Hin’s son, stated that he was requested by his father to call at the Line Barracks to remit an envelope to CP. He called there, announced himself, and was received by the CP (...)”

He did not have to wait in the corridor.

“He remitted the envelope to CP and the latter, after checking the contents (a cash cheque), returned the cheque saying “cash only”. Mr Thierry Man Hin then retrieved the cheque, had it cashed at the bank and came back to pay his dues to CP.

The relevant notes of evidence of Messrs Clément and Thierry Man Hin and of Mr Paul Ah Kiow were communicated to the CP and the QM and those witnesses were made available for questioning at a subsequent sitting.

I would have said maybe that was from one witness, but then is there not more? Then there is more.

In another chapter, entitled ‘The Revelation’, page 203 of the report, paragraph 2.1 –

“In a gist, Mr Leal stated that he has not told everything he knew at the earlier sitting of the Commission because he feared physical retaliation. He revealed that at the end of June 1997, the CP had called one of his employees, Mr Bernard Collet, and had requested the payment of a commission on Land Rover and Opel vehicles which had been sold to the Police by Leal & Co. Subsequently, on 01 and 11 July, two sums of Rs225,000 and Rs400,000 respectively were remitted in cash to the CP in the latter’s office in the presence of Mr Collet. On the second occasion a lunch was offered by CP at the Police Mess at Line Barracks. From the Canteen Requisition Sheets obtained from Corporal Vythelingum, we have seen some of the culinary likes of the CP. (...) “*Camarons*”, more than 12 lbs of fish, 2 packets of prawns and one turkey weighting over 16 lbs (...)”

And we go on -

“Mr Leal gave some details about those sums but at a subsequent sitting of the 27 November qualified some of the answers he had given earlier. Mr Leal also explained that it was clear from the specifications of the vehicles(...)”

that it was tailor-made for him. But, who has sent those tailor-made specifications to the Commissioner of Police to tailor-make it?

“(...) Indeed, as mentioned earlier by Mr Eddy Labat, the General Manager of ASAS was quite candid to admit that the specifications of the Land Rover had been communicated to the Police by ASAS prior to the call for tender and that, to his knowledge, Land Rover was the only maker of 4x4 jeeps with an aluminium body. (...)”

(...) Mr Leal decided to give Rs15,000 per unit. That was, probably, because of the little miseries shown him by the CP in not postponing the tender to January when the sole agency would have been firmly in his hands.”

In this document, Madam Speaker, the same report, why is it on two instances, from Mr Man Hin and his employees coming to a Commission of Inquiry and saying to the Commission of Inquiry: ‘We admit having given money to the Commissioner of Police, as commission, because the Commission of Police set *le barème*, and he asked for it.’ This is what they say at the Commission of Inquiry.

Did the hon. Attorney-General not think it important to at least let a Court decide? He took it upon himself to cast aside strong law, defences in law as far as the Public Protection Act is concerned, and the need to serve a notice *mise en demeure*, strong defences in law put up by the State Attorney, he decided to cast it outside, advise Government that it was right to pay. Did he not think that it was important to draw the attention of his colleagues that this is what there is as a background? Was it not important – I will not refer to the paragraphs concerning the children or families members of Raj Dayal, out of respect for those people.

Here, I read page 370, paragraph 16, which says -

“We reject the explanations that the funds came from income derived from agricultural exploitation by the Dayal extended family as unconvincing and untrue. We simply do not believe that the CP’s uncle would play Father Christmas. Nor do we believe his brother Satish, who, like his elder brother, came up with the same story that he also exploits a land of 90 perches but could not give us any convincing details of the exact location of the plantations, and the workers were supposedly employed to till the land. Nor are we gullible enough to swallow the CP’s story of agricultural prowess on his plot of land of 25 perches at Carreau Laliane, which is the very land

on which he has built his house so that the area available for plantation must be pretty scarce.”

What is interesting, Madam Speaker, is that money - I am not saying here that this is the truth and nothing else but the truth, and I want to be fair. I am saying here that this is a true background. Whoever sat at the level of this Commission of Inquiry, three persons chosen under presidential intervention, with strict parameters made those findings, people deponed. And here, I have to refer to this very interesting remark - the Revelation again. This is quite stressful actually when Mr Leal was questioned by Mr Leung Shing QC, and I read here at page 208 -

“Mr Leal’s movements as well as the time he had received the visits of Mr Ducray on Wednesday 25 and on Thursday 26 November, 1998 were being put to him point blank by Mr Leung Shing, QC. This prompted the witness to tell Counsel - Mr Eric Leal turns and tells counsel Leung Shing, QC – very pertinently “*mais Mr. Leung Shing, vous connaissez tous mes mouvements.*” That brought a cackle of laughter from Counsel and CP looked at the witness with glee. The Commission felt that the crude message that was being conveyed to the witness was that Big Brother knew each and every of his movements and that he should better watch out what he says.”

And now, page 211 –

“Mr Collet said something about his having received a phone call that morning reminding him that he had a child studying abroad. At first blush, that statement appeared to be rather incoherent, but then Mr Collet had awkwardly added that he would prefer not to say anymore until he had checked with the person who had spoken to him. The Commission insisted on a full and immediate disclosure.

We then learnt that Mr Collet had received a phone call that very morning, at approximately 11.00-11.30 hrs, and he was told to be careful of what he was going to say before the Commission since he had a child studying abroad.”

This is the background. If I am going to refer to how much money was collected in coins, from where, and how it was cashed in his personal accounts and of his sons! I better not go there because we would go on until tomorrow night and I could go on and on and on. But this is what was forgotten. I hope I am right. Simply forgotten, I hope not on purpose by the hon. Attorney General. Because it would be dangerous for this country that the hon.

Attorney General has decided not to inform his colleagues and not to rely on this very important element before coming to some sort of decision as regards advising Government to sign an agreement to pay someone Rs15 m., after all that I have just read, which is only about 1% of what the Commission on Inquiry found against Raj Dayal.

In conclusion, the Commission of Inquiry has a chapter, Chapter 8, and I read page 417, paragraph 1.0 -

“The Commission feels that the CP, the QM and the officers of the Customs named in this Part of the Report may not be the only ones who have accumulated such levels of cash and other assets. There seems to be sufficient evidence to demonstrate that such practices are all pervasive among certain groups of officers.”

What the Commission of Inquiry asked, in fact, is that there should be investigations, that there should be prosecution; people should pay for what they have done. Yes, it is true that he was prosecuted. But how many years later on? Why is it that finally the Police dragged their feet to enquire into this matter? Why is it that the Police dragged their feet before sending the file to the Office of the Director of Public Prosecutions? The Commission of Inquiry and the Tribunal finished its work. And who came to power? Who was Prime Minister? Dragged its feet? And when each and every time I hear - hon. - now Raj Dayal say that he won his case, the case was dismissed not on the merits of what he was charged with.

The case was simply dismissed because there was an abuse of process, in other words, it was abusive to come and prosecute someone after so many years. That is how he won his case. True! But the fact remains, the background is still there. The background of the Commission of Inquiry was still there, the strong defence in law in line with the Public Officers Protection Act was still there, the State Proceedings Act was still there. The State Attorney found, on the merits, in the defence of October 2015, that there was good defence on the merits. They denied that he was put out without justification; they denied that he should be entitled to any damages and interests; they denied, in law as well, that he should go forward with that case. They denied it! Why, therefore, did my good friend, the Attorney General, not use this as a background before advising Government?

And what makes matters worse - I am sure other Members would talk about that after me - is that not only - and I repeat that - the hon. Attorney General, as State Counsel, was in the team that appealed at the Tribunal, he also worked together with late Judge Bakaurally on

this file at the Tribunal chaired by Rajsoomer Lallah QC, as he was then, but he also appeared as counsel for Raj Dayal in the case at the Supreme Court against *Advance*.

So, as I said, not only was there the need for him to declare his interests in the first instance as having been counsel working on the charges against Dayal Commissioner of Police, but he should also have declared his interests when it comes to him having appeared for Raj Dayal in a matter against *Advance*. He is a good lawyer. He won the case against *Advance*. Congratulations! But my issue is not to do with him as a person, because as I said - and I come back on that again -, the problem with our society is that we have forgotten that we do not have all to agree and that we have to be able to remain friends by not agreeing. Not a very easy thing to do in our society because it may be out of our culture. We have to be able to debate ideas, principles that should not make us enemies.

So, as I said, I have not at all flinched from what I say. I know him personally; this has nothing to do personally against him, but as Attorney General, there are certain things he should have done and there are certain things he should not do. He will come later on, Madam Speaker, and say, "But the Labour Government advised to pay Rs5 m."

The answer is: 'Never, did Government advise and authorise the payment to Raj Dayal because it never came to Cabinet'. Had it come to Cabinet, I can speak for myself, I do not believe that I would have gone for that. I can speak for you as well and you will say so, we would not have stood for that because it is precisely *sans vraiment descendre* and making it personal. There is this background that dates to times when I had just started practice in the legal profession. I have nothing to do against Mr Dayal. I have nothing personal against him, but this exists. So, what are we to turn around to say, the hon. Attorney General, a constitutionally appointed Commission of Enquiry, we cast it aside, throw it aside. Taxpayers' money was paid to the Commission of Enquiry, President and its assessors. Who cares!

A Tribunal was set up, I am sure paid as well, but who cares! He has decided that he should not have been fired and his salary should have been paid. Based on what? Is he going to tell us that he cast aside the Commission of Enquiry's Report, the Tribunal's Report, the defence in law and the defence on the merits? How did he cast that aside and the testimony of Mr Leal, the testimony of Mr Manhim, the testimony of Mr Collet, the testimony of Mr Labat, all saying one thing, that the Commissioner of Police asked us for commission and not only did he ask, he mentioned the figure and we went to leave the money in his office and he

even verified that the exact figure was there and he took the money and offered us *camaron* in return. Is this how we are going to be the Principal Legal Adviser? Of course not!

I hope it has nothing to do with the fact that hon. Raj Dayal is a Member of Parliament on Government side. I hope it has nothing to do with the fact that he belongs to the MSM. I hope that it has nothing to do with the fact he is no longer Minister. I hope that it has nothing to do with the fact that he could easily, out of disgust, resign and thereby provoke a by-election. There it comes

again the importance of the balancing exercise between the roles of the politicians, the party men, as opposed to that of the independent adviser.

I have said what I believe are matters of principle and I have said it without fear or favour. Now, the time will come where all those who have listened to me on all sides of the House and there, Madam Speaker, I speak to every one of them because it is important. Maybe my hon. friends were not aware what was in that report because I, myself, had not even read it. I have gone through it. I have the report here. I can give it to my friends for them to verify what is there. If you don't believe me, go to the Library and check it. It is in there. Use the resource of this National Assembly. Read, Madam Speaker, is what I asked my friends to do and I know that this is the background of this case and know that as guardian of the people who voted for you, you have the responsibility of ensuring that this background is not simply cast aside because he is your friend. Friends tell the truth to one another and they do not shy away from the truth because, as I said, later on, down the road, questions will have to be answered. Why did you allow it?

Now, it may mean that your party will be angry with you, but history will not. It may be that the Prime Minister was not aware of all this and I would love to believe that he was not informed of all the background. I sincerely, for the love of our democracy, would love to believe that. And there, I come to ethical leadership. What do we do in a situation like this?

Thank you, very much.

Dr. Boolell rose and seconded.

Madam Speaker: I suspend the sitting for 10 minutes.

At 00.39 a.m. the sitting was suspended.

On resuming at 00.53 a.m. with Madam Speaker in the Chair.

Madam Speaker: Hon. Gobin!

The Attorney General, Minister of Justice, Human Rights and Institutional Reforms (Mr M. Gobin): Thank you, Madam Speaker. Madam Speaker, I should perhaps start by clarifying one thing. I am the Attorney General appointed under section 69 of the Constitution of this country. It is a constitutional post. Regarding my career, I started as a State Counsel and I know about the sanctity of the duties of a State Counsel and I still serve the interests of my country to the best of my ability and neither I nor my office has ever failed this country and this motion allows me an opportunity to say why I say so.

By way of introduction - My learned friend, hon. Mohamed, chose by way of introduction to talk about ethical leadership. I will come to that one a bit later. I choose by way of introduction to talk about the cases which the mover of the motion mentioned, namely the cases where I appeared as State Counsel, where I appeared against advance and where I appeared in other cases, suffice it to say when I appeared before the Supreme Court together with my very able and learned friend, now late friend Bhaukaurally, we had won the case.

When I appeared in the case against Advance, I won the case. When I chose to stand as a candidate and I chose the team in December 2014 in which I stood as candidate, the team won and I also won.

(Interruptions)

I will come with details on each and every point raised, but let us, for purposes of this motion, set the background. I know my learned friend, hon. Mohamed, for a number of years. He excels in one thing ...

(Interruptions)

...giving a number of facts in a disorderly manner thinking this will disturb the findings of the Tribunal of fact. The case which we have before us in the motion is the case of Jayeshwur Raj Dayal against the State. In fact, there were three cases. It is good for hon. Members in this august Assembly as well as the people of Mauritius to know what are the cases we are referring to. A first case was entered on 09 May 2014; a second was entered on 26 May 2014 and the third on 27 May 2014. All three before the Supreme Court.

The Supreme Court record numbers are 109566, 109637 and 109643 respectively. The services of the State Law Office were retained by way of a letter from the Commissioner of Police who was the main defendant and there were other defendants who were Police officers as well. It is true to say that particulars were exchanged and more importantly plea *in limine litis* were filed. The first plea *in limine* was filed in July 2015 and a second plea *in limine litis* in the other two cases, in October 2015. The plea *in limine litis* correctly stated by the mover of the motion concerned a Public Officers Protection Act.

It concerned the limitation period which is prescribed in the Public Officers Protection Act, the limitation period of two years very often raised by the State, that is also true. What is also true is that this is often raised and this is often successfully raised in a number of cases when the mover of the motion says that he has three pages of cases listed from 2015 to 2018 and that his printer was out of ink and there are many more. There are many more! But there is one fundamental principle of law, that no two cases are similar. Never! No two cases are similar! What we should focus on is what happened in these three cases. When a plea *in limine* is raised, hon. Members will appreciate that the matter is then fixed for arguments before the Court on the plea *in limine*.

The cases were fixed for arguments on 18 July 2017, of course, before the Supreme Court and for purposes of the arguments, counsel for the plaintiff - the plaintiff is, of course, Raj Dayal - served Notice Tender of Evidence and tendered the documents that were intended to be used for purposes of the argument. He tendered two documents. The first document emanates from the then Commissioner of Police. It is dated 28 October 2013. That letter, Madam Speaker, is an offer made by the then Commissioner of Police to the plaintiff himself in the figure of Rs5,723,769.68 subject to tax deduction as applicable before payment. When the mover of the motion says that in 2013, this matter never went to Cabinet or had it been to Cabinet, he or his colleagues would not have approved. That is a matter for speculation. I am not interested to know what were in the minds of those who formed part of the Cabinet. What was tendered to me as the principal legal adviser was that the State had made an offer to pay.

(Interruptions)

Madam Speaker: Order!

Mr Gobin: That offer to pay was not made without prejudice. That offer to pay was not made from counsel to counsel under legal privilege. That offer to pay was made by the

Commissioner of Police, an agent of the State, to whom? To the plaintiff himself! It is dated 28 October 2013.

(Interruptions)

Madam Speaker: Please, hon. Rutnah!

Mr Gobin: The complaints were entered in 2014. This offer was made in 2013. Where is the two years? My question then is, in 2013 I put the question: who in his right mind as Commissioner of Police then, will make this offer without proper approval? And in 2013, who formed part of Government to authorise the then Commissioner of Police to issue of such a letter? Now, my question thirdly is: why did you, my learned friend, tie my hands as Attorney General to resist this claim?

(Interruptions)

I will table this because there is nothing privilege between counsel. It is not a legal advice. It is an offer. Let me table it! Why did you tie my hands as the principal legal adviser in 2018 to resist this claim? You tied my hands with this way back in 2013. I appreciate your smile, hon. Ramful.

(Interruptions)

This was tendered by way of Notice Tender of Evidence on the day of arguments. What would State Counsel do in the face of this offer? Is it professional to say we need to consider this and we need to look at how this has come about? There was no argument on that day. The document was taken. We went back to the records. Fortunately, we have very good records in this country, and we had to investigate now how was that this tying on my hands effected?

(Interruptions)

Madam Speaker: Please!

Mr Gobin: It came to light that in 2013 between the periods May, June, July, August and September 2013, there were a number of correspondences between Secretary to Cabinet, Commissioner of Police, Solicitor General, Accountant General on the question of payment to Mr Dayal.

(Interruptions)

I stress here, I am counsel for Government. I have a case before me. I go according to what the records of the State show. I will come to what the Commission of Inquiry has said, and I will come to the Tribunal of Judge Lallah. I have taken down notes, but what do the records of the State show in 2013? Let me open a bracket. Yes, I appeared in the Lallah Tribunal. It is not correct to state that I appeared in the Commission of Inquiry. Let us make things clear. The Sik Yuen inquiry, I never appeared. A Commission of Inquiry is under the Commission of Inquiry Act. I am not here to give any free legal advice as to what is the weight to be attached to what a Commission of Inquiry says. This is another matter. I appeared, yes, in the Lallah Tribunal, if I may call it 'The Lallah Tribunal'. That was in the years 1999 and 2000.

And in 2018 I am appearing for whom? I am appearing for the State once again. So, there were a lot of murmurings when hon. Mohamed was saying he had some difficulty in understanding my role. I put the question; for whom did I appear in the Lallah Tribunal? For Mr Dayal or is it for the State? My title was State Counsel. I appeared for the State. And for whom am I appearing now in 2018? For the State once again!

(Interruptions)

I can't hear any murmurs now. I have appeared for the State then. I am appearing for the State now. My advice is an independent legal advice to Government. What is the difference? It is that between the years 1999 to 2000 and 2018, a number of events have happened and, most importantly, the events which took place in 2013, leading to the issue of this letter, and from this letter leading me to advise as I did in this case.

Now, I come back to the events between May, June, July up to September 2013. This is what the records of the State show. I say again between correspondences between Secretary to Cabinet, SG, CP and Accountant General. I forgot one; the Ministry of Civil Service and Administrative Reforms also was consulted. I quote correspondence 20 June 2013 between Solicitor General and Commissioner of Police. After a long recital of facts, the concluding paragraph, I quote -

“However, given that Mr Dayal, despite having been removed from office, was not successfully prosecuted and two of the charges before the disciplinary tribunal related to the criminal charges were never tried and proved before the Intermediate Court, consideration may be given to making an *ex gratia* lump sum payment to Mr Dayal,

computed on the basis of the number of years of service completed until he was removed in 1997.”

It is signed by the then Solicitor General, who is still the Solicitor General today. Copy of the letter was sent to the Prime Minister’s Office.

The letter from the Commissioner of Police to the Solicitor General dated 04 July 2013, signed by the CP himself, Mr D. I. Rampersad GOSK, PMSM, Commissioner of Police. Two-page letter. Concluding paragraphs, I quote -

“All said, on the balance of things, Mr J. R. Dayal appears to have suffered moral hardship and mental stress and it would be fair and reasonable to compensate him, more so except for the proposed lump sum, all his other benefits accruing, *inter alia*, from vacation leave and monthly pension may not be granted to him. Therefore, to be just and fair to him and in the name of natural justice, it is suggested that the payment of an *ex gratia* lump sum or any other benefits to which he would have been eligible be considered, taking into account the above circumstances. An early reply would much oblige.”

Let us look at what the Secretary to Cabinet then says. And once again, I put the question. We all know how the administration is very careful with its records, and I put the question. Would the Secretary to Cabinet...

Dr. Boolell: Can I ask the hon. Minister whether he will table all the documents which he is referring to?

Mr Gobin: I know the hon. Member would have asked this. He wants to use this motion as a fishing expedition for me to give everything. He already has it because he was in Cabinet then.

Dr. Boolell: The hon. Minister should not disclose it. Why doesn’t he lay it on the Table if he has?

Mr Gobin: The hon. Member will have the opportunity to speak later.

Mr Bérenger: That is very serious, Madam Speaker, and the Attorney General has already tabled a copy of the letter of the Commissioner of Police. And now he is quoting what he chooses to quote in reference to three other letters. Would it not be order for him,

after having tabled that letter from the Commissioner of Police already, to table those three letters?

Mr Gobin: No, Madam Speaker, let me say again why. I repeat what I said earlier. That letter which I have tabled is not covered by any legal privilege, is not made on a without prejudice basis. So, legally, I am tabling it. There are other documents which do not necessarily form part of the same category of documents.

(Interruptions)

I am speaking on a motion. My other hon. colleagues have a different opinion; they will speak later on. If Madam Speaker rules that I will not make any reference from these documents, I won't. Fine! But the records speak for themselves, and I have given the dates, the years, and the signatories of those letters.

Madam Speaker: Can I ask the hon. Attorney General as to why he thinks that he cannot table the other documents? Is there anything which is confidential in nature and for which he thinks that he cannot table these documents?

Mr Gobin: I am of opinion that it is under legal and professional privilege, Madam Speaker. I do not propose to...

Madam Speaker: Hon. Attorney General, I think we should deal with this matter first. I feel that if there is no confidential nature in these documents, these documents can be tabled.

Mr Gobin: I will do so, Madam Speaker. I stand guided. I will do so. We have nothing to hide in this Government, and we are going to table it for all the murmurs to be silenced.

On 23 October 2013, the Secretary to Cabinet writes to the Commissioner of Police and says -

“After consultation with the Ministry of Civil Service and Administrative Reforms, approval is hereby conveyed for the payment of a one-off all inclusive *ex gratia* lump sum of Rs5,723,769.68 to Mr R. Dayal as follows (...)

And a breakdown is given.

The letter continues -

“It is understood that this amount has been computed by the Accountant General and is subject to tax deduction as applicable before payment.

Your attention is also drawn to the fact that before payment is effected to Mr Dayal, he should give a written undertaking that he will have no further claim whatsoever against the State arising out of this matter as per the attached certificate.”

And there is an attached certificate. I am tabling the document.

These records have come to me. Of course, in 2013, I was no longer at the State Law Office, but in 2018, when the - I say it again - notice tender of evidence was served, it contained an offer. From the offer, we have been to see and check the records, and all these records came up.

And the question, therefore, was when an offer had already been made and the plaintiff had made representations to contest the figure of Rs5 m. on the basis that his pension rights had not been taken into account. I am tabling the response of the plaintiff to the offer of Rs5 m., which is dated 21 November 2013.

With these facts, the next question which arose was: what is the appropriate figure? The appropriate figure, as stated in the correspondences, had to be computed by the Accountant General. And when we look at the computation of the Accountant General, which is dated September 2013, it contains a breakdown.

Globally the figure of Rs15 m. appears there. I am going to table also the calculation of the Accountant General. And how does the Accountant General arrive at that figure? The salary as per the PRB Report, then applicable was Rs110,000 for the Commissioner of Police on the basis of years of service and all the details given in the calculation of the Accountant General. Anyway, I will be tabling it a bit later, it is in my file, the figure of Rs15 m. is arrived.

What is the point of the mover of the Motion? The mover of the Motion makes a point, a very important point that in my Press Conference I had stated ‘*c’est la paye d’un fonctionnaire.*’ Of course *c’est la paye d’un fonctionnaire. La paye du Commissaire de Police* prescribed in the PRB Report was Rs110,000. It was the basis of the computation and we do not give such technical explanations in Press Conferences. You are giving me an opportunity now with this Motion, so therefore I am giving it.

The mover of the Motion says that ‘as if the Attorney General defied the findings of a Constitutional Tribunal’. The correspondences I have just filed in 2013 show that the State had taken a decision to compensate in the teeth of whatever has been set out by the mover of the Motion. I am not defying any Constitutional Tribunal; I am processing forward a decision which had already been taken and, importantly, conveyed to the plaintiff directly by an agent of the State, namely the then Commissioner of Police.

Much has been said that I ignored the findings of the Commission of Inquiry! Why were not all these issues taken back in 2013?

(Interruptions)

My learned friend, mover of the Motion, refers to the agreement which was signed before the Mediation Division and refers specifically to paragraph 3 of that agreement and the mover did not file that agreement. I pause here to remark...

(Interruptions)

Pardon! Moi?

Madam Speaker: No cross talking, please!

Mr Gobin: You are the mover, you made reference and there was no problem when you did not file it, and there was silence over there then.

Paragraph 3 was quoted from the agreement –

“Had he not been removed from office, he would, in the normal course of things, have remained in office until 07 July 2009, date on which he would have retired from office on grounds of age.”

End of quote of paragraph 3 of the agreement signed before the Mediation Division and the mover of the Motion said ‘we have ignored everything and we have just stated that in the normal course of things he would have retired on 07 July 2009. Everything else was ignored.’ And I say again, the mover did not file that agreement. He knows why he did not because he was selective about the facts.

The documents I have filed now, which show in 2013 what happened, I say again...

Mr Bérenger: On a point of order again. I am listening very carefully and I hear the Attorney General speak in the singular. He has just said ‘the document which I have filed’, I understand that three letters in addition to what he had filed, are being circulated. Am I right?

Mr Gobin: I have.

Madam Speaker: In fact, we have received three documents at the Table. Yes, hon. Attorney General, please proceed!

(Interruptions)

Mr Gobin: It reminds me of what the hon. Deputy Prime Minister always say, whether it is with regard or with regards. So, I should make use of the ‘s’. Now, this agreement is between - I will come to the decision making process later. Let me say that when the decision was reached to offer the sum and to reach a settlement, we did nothing out of Court, *en catimini*, or as if we had something to hide. The case was before the Supreme Court and we settled before the Judge of the Supreme Court on 05 March 2018 and we set out all the facts, the parties signed, the learned Judge also signed the agreement as per the mediation rules of the Supreme Court and that happened on 05 March 2018 for the sum of Rs15,160,782.28 subject to tax and on the clear undertaking that it was a full and final satisfaction of all claims and that there had no other claim against the State of Mauritius.

I have to say that payment was made by the Accountant General thereafter. As we know it, in this House, a payment is made by a warrant from the Accountant General in the bank account of the plaintiff. I cannot now give the number of the Bank Account. I can give the bank; it is the State Bank. Tax was deducted in the sum of Rs2,274,117.34 giving the net amount paid Rs12,886,664.94. The sum is exactly the same as was calculated by the Accountant General in September 2013. There was no fresh calculation; there was no alteration whatsoever on the basis of calculation, that is, the salary. It was the same Rs110,000; it was a lump sum payment. What was the next point of the mover of the Motion? That I had decided on my own volition to authorise such a payment! I started my career as a State Counsel; I know the rules of the Civil Service.

Who, in his right mind, would authorise such a payment without Cabinet’s approval. I took the matter to Cabinet and it is following Cabinet’s approval that payment was made, Madam Speaker. Not only that, after the agreement was signed before the Mediation Judge, I

reported back to Cabinet that the agreement was signed. From there, no further case of Dayal vs the State, whatsoever. That is another matter. I say that because there have been Dayal vs the State cases for a number of years. So, I had to report to Cabinet that as from 05 March 2018, there were no cases of Dayal vs the State.

These are the facts on the basis of the Plaints lodged before the Court: the Plea of the defendant before the Court, the Notice Tender of Evidence before the Court, the records of the State of Mauritius in 2013 and the agreement between the parties dated 05 March 2018 before the Mediation Judge. These are the facts which cannot be contradicted.

Let me come to my final point. I will close where the mover started - ethical leadership, Madam Speaker. Ethical leadership was the point of introduction and the question of whether I give independent advice free from political bias to Government of Mauritius. Yes, I have always done so as a State Counsel and I still do it. I have had the honour and privilege of appearing against my learned friend, hon. Mohamed, in Court. It was always a pleasure when I see the outcome.

Madam Speaker, I will not talk about the ethical leadership of the party. I will leave that to my seniors sitting on the front bench. They are the last ones to come to talk about the ethical leadership. Professional legal advice - I come from an institution called the State Law Office and I am proud of it. The State Law Office has served this country, has served all Governments and all Prime Ministers, including the Prime Minister sitting on the other side. The State Law Office has never failed this country and will never fail this country. I have the backing of my staff. I said it in the Press conference and I am saying it here. All necessary legal and administrative procedures were followed right up to the highest level of my office before I went to Cabinet. The State Law Office has never failed this country. It has not failed this country in this case. It is out of question that it is a question of '*bangoler*'. Who, in his right mind, can even think of such a word in the light of the files and the documents? Let the citizens of this country not be fooled. I have put the facts before the House. The Motion is against me. I will leave the other hon. Members to speak after me. I will stop here and I thank you, Madam Speaker.

(Interruptions)

Madam Speaker: Please, order!

(Interruptions)

Order!

(Interruptions)

Order, please! Yes, hon. Bérenger!

(1.39 a.m.)

Mr P. Bérenger (Third Member for Stanley & Rose Hill): Yes, Madam Speaker. Of course, I have listened with utmost attention to what the mover of the Motion had to say earlier on and to what the Attorney General has just said. I will listen with utmost attention to what Rt. hon. Sir Anerood Jugnauth will have to say and later on, my colleague, hon. Reza Uteem, who will speak more on the legal side of things.

Some of the things that we heard, said by the mover of the Motion, brought us back to the past and I am sure *vétérans* like us, but the new ones also, some of the things we heard, *a donné froid dans le dos*, have reminded us of terrible things that have happened in the past. Shocking! Very disturbing! Damning! I say again, there is nothing personal as far as we are concerned and I am sure of the mover of the Motion also, who is a personal friend, I understand, of the Attorney General. Therefore, as far as we are concerned, there is nothing personal aimed at the Attorney General. We blame Government and it is good that the Attorney General has confirmed that he went to Cabinet and that it is Cabinet that decided to pay Rs15 m. plus this and that to the former Commissioner of Police. We blame Cabinet. We blame the whole of Government. There is nothing personal in it. We blame the whole of Government for having taken this decision to pay Rs15 m.

(Interruptions)

Madam Speaker: No interruptions, please!

Mr Bérenger: Listen! Don't get excited!

It is the whole of Government that we blame and not on a personal basis, the Attorney General.

Now, the Attorney General has brought us back to 2013. Very good! I listened, as I have said, very carefully to the Attorney General and he was full of praise for the way records are kept in the Civil Service of Mauritius, including the Police. I will read very carefully the four letters which have been tabled: one from the Commissioner of Police to the former

Commissioner of Police, hon. Dayal, and the three other letters. The Attorney General was also right to say that the Commissioner of Police of those days, of 2013, would not have taken it upon himself to propose Rs5 m. plus this and that to the former Commissioner of Police.

Therefore, I think we owe the whole truth to the country. The files are there. You have been full of praise for the files. You have said that the then Commissioner of Police would not have acted on his own. We want the whole truth. We request that all the documents relating to that be made public. We want to know in what circumstances in 2013, did the then Commissioner of Police make an offer of Rs5 m. and so and so to the former Commissioner of Police. The country has the right to know the whole truth.

Therefore, I put a formal request that we go to the files, we circulate the documents required for the whole truth to come out, in what circumstances in 2013, the then Commissioner of Police made that offer to the former Commissioner of Police.

I asked the mover of the motion whether...

(Interruptions)

Yes. Who has said the contrary? I am not targeting you.

(Interruptions)

No, I want the truth. I want the truth, the whole truth about this matter and we will not stop blaming the payment of that Rs15 m. in 2018.

I asked the mover of the motion whether he agrees because the Attorney General must have a copy, of course, of the agreement signed in 2018 between the former Commissioner of Police. It is childish to refrain, to refuse to table that and to impute motives to the mover of the motion. And he has agreed to table it. But you should have done it yourself, do not be childish in that way.

Therefore, if you do not do it, then the mover of the motion has agreed to table a copy of the agreement, Madam Speaker. Therefore, we blame Government; I repeat, we blame the whole of Government - and not the Attorney General personally - for this payment of Rs15 m. in 2018, and we say that the whole truth must come out. That what took place in 2013 must come out and we will come back onto that when I will have read very carefully the four letters that have already been circulated. Thank you, Madam Speaker.

Madam Speaker: Hon. Sir Anerood Jugnauth!

(1.45 a.m.)

The Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues (Sir Anerood Jugnauth): Madam Speaker, I felt it was my duty as former Magistrate and former Prime Minister to intervene on the present motion before the House, as I wish to demonstrate how demagogical the Opposition can be when it comes to attacking Ministers and Members of this side of the House.

I have gone through the whole Raj Dayal file, including all the cases that were lodged against him by the State and also by him against the State since he was removed as Commissioner of Police in January 2000.

I can say without any hesitation that the motion of hon. Mohamed, spokesman of the Labour Party in this House, is a shameful attempt to attack the integrity of the Attorney General, and I will prove that. In fact, the decision to make an *ex gratia* payment to Mr Dayal in terms of damages claimed by the latter following three cases lodged against him that were dismissed in Court, was a decision of the former Labour/PMSD Government.

Madam Speaker, I am not going to dwell on the unconventional methods, not to say that dictator type techniques that were used by the Labour Government to victimise Mr Raj Dayal, but I need to highlight that none of the accusations and charges lodged in our Courts could be proved against Mr Dayal.

The harm was done against Mr Dayal and we know it was politically motivated. Naturally, Mr Dayal claimed for damages to be paid to him after the Court quashed all the charges against him. I have seen some Press articles where Members of the Opposition claimed that the 2000/2005 Government could have paid those damages that were claimed, but they failed to say that the Court cases were still ongoing, there was no claim yet for damages by Mr Dayal.

The issue of damages was put on the table in 2013. In a letter dated 04 July 2013, addressed to the Solicitor General, the then Commissioner of Police referring to an advice from the Solicitor General stated, I quote -

“As you are aware, Mr Raj Dayal has been cleared of all criminal charges against him. In view of the unproven charges against Mr Dayal, this office concurs with your observations, all said on the balance of things, Mr Dayal appears to have suffered

moral hardship and mental stress and it would be fair and reasonable to compensate him.”

The Solicitor General had advised in a correspondence to the Commissioner of Police dated 20 June 2013 that, I quote again –

“Given that Mr Dayal despite having been removed from office was not successfully prosecuted and the two charges before the Disciplinary Tribunal related to the criminal charges whenever tried and proved before the Intermediate Court, consideration may be given to making an *ex gratia* lump sum payment to Mr Dayal computed on the basis of the number of years of service completed until he was removed.”

Further correspondences between the then CP and the Solicitor General show that the latter asked to give his advice on pension benefits that were payable, but that were disputed by the then CP. He commanded on 17 July 2013 that in addition to gratuity, pension benefits were payable to Mr Dayal from the date of his removal from office until his normal retirement age in July 2009. On 03 September 2013, the then Accountant General computed the *ex gratia* payment to Mr Dayal, which included gratuity non-taxable, sick leave taxable, vacation leave, passage benefits, reduced pension for period 2000-2009 and additional pension benefits for the 2009-2019 period considering a life expectancy of 70 years for Mr Dayal, that made up to Rs15,402,409.43.

The Dayal file further reveals that on 28 October 2013, after consultation between the then Commissioner of Police, the Solicitor General, the Ministry of Civil Service and Administrative Reforms and the Secretary to Cabinet, obviously with the concurrence of the then Prime Minister - and, of course, the then Prime Minister was Navin Ramgoolam - it was decided to make an *ex gratia* payment of Rs5,723,769.68 to Mr Dayal for removal of the latter from Office as Commissioner of Police.

Accordingly, the then Commissioner of Police addressed a correspondence to Mr Dayal in these terms, I quote –

“I have the honour to inform you that approval has been conveyed for the payment to you of one-off all inclusive *ex gratia* lump sum of Rs5,723,769.68.”

It is important to point out that the then CP mentioned in his letter that approval has been conveyed for the payment of that sum, which means somebody approved and that somebody cannot be the Secretary to Cabinet, who certainly must have sought approval from

the then Prime Minister. The proposal from the then Commissioner of Police was rejected by Mr Dayal, who highlighted in a reply in letter dated 21 November 2013 that, I quote –

“The offer does not reflect your commitment to correct a miscarriage of justice with untold prejudices to me and my family. My pension rights have not been considered by your office”.

The matter was left unattended until Mr Dayal lodged a plaint with summons with three claims against the State and six other defendants in the Supreme Court on 09 May 2014.

Madam Speaker, I need to highlight that the State Law Office, representing the interests of the State and other defendants in the case, had, in their submission dated 06 July 2015, raised a plea *in limine litis*, which is about the action of Mr Dayal being time-barred, as it was argued that the plaint was lodged in breach of the Public Officers Protection Rights, which requires such action to be lodged within three years of the occurrence.

The action of Mr Dayal was, in fact, registered by the defendant before the Supreme Court. But, on 18 July 2017, when the case was called before the Supreme Court for arguments, Mr Dayal produced a notice of tender of evidence regarding the offer of *ex gratia* payment that was proposed to be made to him on 28 October 2013, as I mentioned earlier, and his refusal letter dated 21 November 2013.

The defendants having accepted to have recourse to mediation waived the plea *in limine litis*, that is, prescriptions are time-barred. The case was called before the Supreme Court on 05 September 2017 and was referred to the Mediation Division of the Supreme Court. From what I have stated so far, it is clear that the whole matter on behalf of the defence was looked after by the Solicitor General, the CP and the Accountant General. The Attorney General only took the matter to Cabinet when the fact and figures were handed over to him. The Cabinet, at its meeting of 07 February 2018, after perusing all the facts and assessed how the figures were computed as far back as in 2013, came to the conclusion that the sum of Rs15,402,409.43 was a reasonable and fair figure and approved it.

The Attorney General - I stress upon it - only brought the matter to Cabinet and was never involved in determining the sum to be paid to Mr Dayal. I cannot see how he can be blamed. Obviously, Mr Dayal has to pay all charges and taxes due to Government. Therefore, the real sum he is getting is less than Rs15 m.

Madam Speaker, this Government had no option than to follow the process which had been initiated way back in 2013, and the figure that was worked and all the details were given to us through the Attorney General. I am producing the document. The process which had been initiated way back in 2013.

The previous Labour Government knew that they were at fault when they dismissed Mr Raj Dayal, but in order not to show to the public that they were at fault, used the term ‘*ex gratia* payment’ and not damages. Madam Speaker, the matter was settled at the Mediation Division of the Supreme Court. There was a proper agreement that has been done in all transparency within the precincts of our judicial system, not out of Court as alleged by Members of the Opposition. I, therefore, do not see how the Attorney General can be blamed. I condemn the attitude of hon. Mohamed and other Members of the Opposition. The facts speak for themselves. The one to blame should be the former Prime Minister, Navinchandra Ramgoolam and his Government who made an abuse of power to remove Mr Dayal from the Office of Commissioner of Police. The courts have ruled and justice has prevailed. That is my conclusion, Madam Speaker.

Having said that, I personally believe that all reasonable Members of this Assembly should vote against this demagogical motion of hon. Mohamed. I, for my part, would have voted for a motion of no confidence if there had been one against the mover of the motion in front of this House.

Thank you.

Madam Speaker: Hon. Rutnah!

(1.59 a.m.)

Mr S. Rutnah (Third Member for Piton & Rivière du Rempart): Thank you, Madam Speaker. Madam Speaker, the mover of this motion has decided to put to question the integrity of the Attorney General and has tried to question the role of the Attorney General by virtue of this motion of no confidence. But when I was listening to the mover of the motion, the way he was putting across his arguments tonight, any reasonable citizen of this country who is watching this debate would have thought that, really, this man who sits there, the hon. Attorney General who receives standing ovation from us, is a crooked man, a crooked person. And hon. Dayal is really someone who must have manipulated the system because now he is a Member of this Government and that is why he was paid Rs15 m. odd.

The mover of the motion tried to kill two birds with one stone. But, unfortunately, his stone vanished in the air and instead of having one bird in the nest and be happy about it, now he doesn't even have an egg in the nest. This is the position now he is in. But let us look at the points in law, Madam Speaker.

It was made to believe that the role of the Attorney General was such that he allowed a payment out of time against section 4 of the Public Officers Protection Act (POPA). That is what was made to believe. And this is what we call in English, he make-believe; create belief, create the impression, make Press conferences, corrupt the mind of the people, corrupt the mind of the public; make belief sound by politics sometimes. But let us deal with the issue of section 4 of POPA.

We all know, even non-lawyers know, that if you want to sue the State for a wrong the State has done, you have to initiate proceedings within two years, and before the two years lapse, at least a month prior to that, you have to serve a notice, *mise en demeure*. Basic law, known to the people of Mauritius! But there is in law this interruption principle, the interruption of the limitation period, and when does that start. We have heard it today; the documents that have been tabled, the letter of 2013 written by the former Commissioner of Police when he started to engage into negotiations, the principle of the limitation period stops.

And let me quote, Madam Speaker. As lawyer, we have to quote from books of authority.

(Interruptions)

Yes.

From a very reliable source, Clyde & Co. lawyers, International Firm of Law –

Interruption of the limitation period.

Under the Civil Code, the limitation period can essentially be interrupted –

- “By a recognition of the right by the debtor (new Article 2240 Civil Code)
- By a claim against the debtor brought before a court (or in arbitration), even in interim proceedings (new Article 2241 Civil Code) unless the writ is null or the proceedings are subsequently abandoned (...).”

And then it goes on, it explains. Its crucial part, Madam Speaker -

“As regards the recognition of the right by the debtor, new Article 2240 provides that “the recognition by the debtor of the right of the person against whom the limitation was running, interrupts the limitation period” (this provision existed prior to the 2008 Reform as Article 2248). The recognition must emanate from the debtor and must be unequivocal, although a court might imply recognition from the behaviour of the debtor depending on the specific circumstances of the case.”

Now, the former commissioner wrote to the then Mr Dayal, now hon. Dayal, they purport it was not a Cabinet decision, they purport that it just emanated from somewhere, but now we know from the documents that have been tabled, that I briefly looked at. The Cabinet Secretary has sent letters, has sent documents and, today, the mover of the motion turn round here to say that they were not aware, as a Government, and this is what they want the people of Mauritius to buy tonight.

(Interruptions)

This is an...

(Interruptions)

Yes.

(Interruptions)

This is an absolute shameful act. Yes, Madam Speaker, I do raise my voice today and I have the right to do so. Because when integrity of Members of this side of the House is attacked to make believe that the Attorney General's role was bent or hon. Dayal's role was bent, then, of course, it is a matter not only me would be angry about, but the population at large when they listen to the truth, they would be angry about it.

Now, the third Member of Stanley-Rose Hill, when he says, some of the things we heard tonight *donnaient froid dans le dos*. But what did he say?

(Interruptions)

Do you know what kind of remarks he made about the amendment of the Constitution that when the former Prime Minister brought to this House the Bill to amend the Constitution - I see everybody is silent. The then Leader of the Opposition, it is about the amendment of the Constitution so that a Tribunal can be set up.

(Interruptions)

Yes. I am grateful for the assistance from my very able and learned friends.

(Interruptions)

So, this was an amendment of the Constitution with a view to remove the then Commissioner of Police. Listen to this! The hon. Member who has enormous amount of experience in the proceedings of this House. Today, *donnaient froid dans le dos* –

“The amendment proposed by the Local Government hits, damages, a fundamental aspect of the Constitution and a fundamental aspect of democracy itself. It is dangerous, undemocratic and unacceptable. This, we have already made clear. And we made clear just, as forcefully, that we want the Commissioner of Police to go and the amendments, which I shall present later on and move at Committee Stage, would allow us to get rid of the present Commissioner of Police. It is because the amendment proposed by this Government hits at fundamental aspects of our Constitution and democracy itself that unanimity, in all quarters, including Sir Veerasamy Ringadoo (...).”

And then –

“L’unanimité s’est faite contre cet amendement, except for the Labour Party. The same thing, in fact, applies as far as the reform of our electoral system (...).”

Not relevant.

Now, Third Member of Stanley-Rose Hill, then Leader of the Opposition.

(Interruptions)

Madam Speaker: Hon. Rutnah, I understand that you are quoting from Hansard?

Mr Rutnah: Yes.

Madam Speaker: Is that from Hansard?

Mr Rutnah: Yes.

Madam Speaker: Which date? Please give the date so that everybody knows from where the relevance of what you are quoting.

(Interruptions)

Mr Rutnah: Madam Speaker, I am so sorry. I am grateful for your assistance. It is Public Bill, Second Reading, the Constitution of Mauritius (Amendment) Bill (No. XIII of 1999), which was presented at 4.00 p.m., Order for Second Reading read, presented by then Prime Minister on 04 June 1999, *s'il vous plaît*.

I don't speak French very well, Madam Speaker.

(Interruptions)

Madam Speaker, can he withdraw that word '*imbécile*', please? Please!

(Interruptions)

Madam Speaker: No. Hon. Bérenger, it is very late. I think you have already withdrawn.

(Interruptions)

No, there is so much noise in the House that I did not hear. Okay, you have withdrawn.

Mr Rutnah: It is okay, Madam Speaker, he is excused.

(Interruptions)

Je parlerai de quatre péchés capitaux de l'amendement travailliste.

Mr Bérenger: On a point of order, Madam Speaker. What's the relevance?

Madam Speaker: Hon. Member, I understand that the hon. Member is talking about the motion which was brought in front of this august Assembly for the removal of hon. Dayal, and that was an amendment to the Constitution. He will be brief about it. He won't go into length about it, but he wanted to mention that because it was then after the amendment to the Constitution that hon. Dayal was removed from Office.

(Interruptions)

Mr Rutnah: Madam Speaker, this is...

(Interruptions)

Madam Speaker: Please!

(Interruptions)

Please!

(Interruptions)

Please, allow the hon. Member to proceed with his speech!

Mr Rutnah: Madam Speaker, in ...

Madam Speaker: Hon. Rutnah, can you be brief about that?

Mr Rutnah: Of course, Madam Speaker and I have to give credit to the hon. Member, the Third Member for Stanley-Rose Hill that back in 1999 he was right about everything he said. In fact, he was right and he said that at that time in relation to the amendment of the Constitution simply to remove the then Commissioner of Police, this Act was *péchés capitaux*...

(Interruptions)

«Je parlerai de quatre péchés capitaux de l'amendement travailliste que nous considérons aujourd'hui. Le premier péché capital est que, précisément, l'amendement porte atteinte au security of tenure. »

Then, we have got a lot of things said. Why do I call the Labour Party *un parti récidiviste*, etc.

(Interruptions)

But I am going to be brief.

Madam Speaker, what I find extremely disturbing is when the third Member of Stanley-Rose Hill says this: 'Nothing against the Attorney General tonight. We blame the Government, the Cabinet.' A drastic change in the goal post! The Motion, Madam Speaker...

(Interruptions)

Madam Speaker, we are debating the Motion of the mover. The Motion of the mover is in relation to the role that the Attorney General allegedly plays and that is why there is this Motion of No Confidence. That is why. But now, the goal post has changed. So, we have to make it clear, Madam Speaker, and I know during the weekend there will be Press conferences to, again, manipulate the facts, try to make beliefs, bring to the public something which is completely false to make it sound like a truth because they keep repeating everyday.

When you keep repeating something everyday and people hear about it, they are psychologically conditioned that it is the truth. So they make beliefs. That is what it is all about. This was tonight, Madam Speaker, a desperate attempt of mudslinging on honest Members of the Government.

I have not finished yet, Madam Speaker. Let me deal now a little bit about the arguments raised by the mover of the Motion. I have dealt with the issue of section 4 of POPA - the argument regarding the abuse of process. He said that hon. Dayal, apparently, won his case on technicality, abuse of process, because of time factor, because of the time taken for the case to come to Court. But I have had the opportunity to look at the Judgement itself of the Intermediate Court and if anyone doubts the integrity of the content of what I am going to read, I do not mind even tabling it. This is the ruling of the learned Magistrate and this is what was said -

“Counsel appearing for accused No. 1 has now moved for a stay of the present proceedings on the ground of abuse of process inasmuch as the continuance of the present proceedings offends the Court’s sense of Justice and propriety to try the accused as it would not be fair to try the accused nor could a fair trial ensue.”

If we look at the particulars ...

(Interruptions)

Madam Speaker: Which date was that, hon. Rutnah?

Mr Rutnah: Actually, the judgment is dated 07 February 2007...

(Interruptions)

It could be 02 February as well, Madam Speaker. It is either 02 or 07 February 2007. It is signed by the then D. Beesoondoyal, President of the Intermediate Court and P. Kam Sing, Magistrate of the Intermediate Court. Let us look at the particulars.

1. There has been clear manipulation

- (a) Of the whole alleged independent Police enquiry, more particularly in obtaining from the competent authority alleged approval of the classified documents, remitted to the Police before the alleged independent enquiry;

(b) of the protection of the law even during the trial process by a Counsel from the State posing to have watching brief on behalf of witnesses

summoned by the defence while State Counsel holding the brief for the Prosecution in the present case, who incidentally was also assisting the Commission of Inquiry, has been concealing materials to the Court in terms of documents U,V,AA and AB, thereby manipulating and preventing the Court from giving effect to defence submission on the issue of documents produced from competent authority;

(c) inasmuch as Prosecution is based on evidence admitted in breach of section 12 of the Commission of Inquiry Act (vide documents U,V,AA and AB);

II. Time-lapse between the start of the so-called independent Police inquiry and the recording of defence statement of accused No. 1 on 23 February 2000 in clear breach of his constitutional right to silence;

3. The manner whereby the quantum of bail for accused No. 1 was set out by the Police in clear manipulation of Court's authority;

4. The provisional charge whereby the two accused were the only ones to be charged and prosecuted in the light of documents U.

5. Suppression of the fact that the enquiry in fact started on 27 November 1997 by recording statements from witnesses who deposed before the Commission of Inquiry whereby a parallel inquiry was ongoing coupled with the fact that the Constitutional Tribunal had neither started nor completed its proceedings.

6. Failure of the Police to secure the two computers from the Traffic Branch and the Police Headquarters for expert examination in relation to the letter of 01 September 1997 and manipulation of the computer in the office of suspect witness No. 4 Bulloram.

Then, we have got a few more. I do not propose to read all of them. And it says clearly here in a paragraph –

“It is understood that the Motion for stay of proceeding is not based on delay on which we have already given our findings in a previous ruling. The present Motion is

based on alleged manipulation of process of the Court. In that, the accused parties would not benefit from a fair trial and it would not be fair to try them.”

So, it is on this basis, on all these grounds, that the abuse argument succeeded at the Intermediate Court. Again, for reasons best known to the mover, he has distorted the truth today in the House.

Mr Mohamed: On a point of order, this is serious. The hon. Member cannot say I distorted the truth. I will ask him to withdraw that, Madam Speaker. ‘For reasons best known’, he is imputing motives on me this time. He is just imputing motives and he cannot do that. That is the Standing Orders, Madam Speaker! He cannot do that!

Madam Speaker: Hon. Rutnah, for the sake of hon. Mohamed, you cannot say that he has distorted the fact. Can you just put that in another way please?

Mr Rutnah: Of course, Madam Speaker. OK, let us say like this. I withdraw completely the entire phrase ‘distort the truth’. Let us say he was economical with the truth, with the view to actually make people believe that hon. Dayal complaint was based on a technicality that relate to lapse of time. But from what I read, it is clear. Now, coming to all the evidential material in his mudslinging exercise on hon. Dayal about the witnesses who have deponed at the Commission...

Mr Mohamed: On a point of order, Madam Speaker. The hon. Member says that I am mudslinging? What mudslinging? I am basically reading...

(Interruptions)

Can I make my point, please?

Madam Speaker: Order! Order!

Mr Mohamed: Can I, please, make my point? Thank you, Madam Speaker. What I am trying to say here is that I have only read facts and those facts are in the Commission of Inquiry Report. That is not mudslinging. Now, if he feels that the hat fits, so much the better. But I am just not mudslinging anything, I am slinging words that were written in the report. So, that is not imputing motives again? Madam Speaker, please!

Madam Speaker: From what I understand, hon. Mohamed, is that you have read from a report. What hon. Rutnah is saying is that this has already been thrashed out in Court. It is for hon. Rutnah to prove.

Mr Rutnah: Madam Speaker, my learned friend, the mover of the Motion, is a Barrister of some years' standing. He knows about the Commission of Inquiry Act 1946, he is familiar with the rule of evidence; he is also familiar with how evidence are tendered in a Commission of Inquiry. Now, everything that is said in a Commission of Inquiry is not challenged in cross examination. So, you can go there, you can say whatever you want and whatever allegation you can make about someone. Later on, if you are not happy about what was said about you, then you can go to the Supreme Court and Judicial Review.

(Interruptions)

Madam Speaker: Order!

(Interruptions)

Order, please!

(Interruptions)

Hon. Balomoody, please!

(Interruptions)

Can I ask you not to have crosstalking from a sitting position, please? Allow hon. Rutnah to proceed with his speech, please!

Mr Rutnah: Thank you, Madam Speaker. Madam Speaker, I was dealing with the issue of this Commission of Inquiry, the evidence. We all know, seasoned lawyers, who sit on both sides of the House, know fully well the rules and the games of the Commission of Inquiry.

Now, let me read a little bit from the Intermediate Court Judgment of the then Magistrates Beesoondoyal and Kam Sing -

“The evidence on record shows that the Commission completed its work and submitted its report on 16 April in 1999. However, Mr Ragen, who was the Secretary to the Commission, chose to keep all the proceedings and the documents of the Commission at the Prime Minister’s Office instead of handing them over to the

President as expressly laid down in the presidential instrument published in the Government Gazette.”

Why on earth? Why? Because people who are watching us tonight when I read this, they must have said, why. Why on earth the Secretary to the Commission, in breach of the established principles, would he go and depose this Report of the Commission of Inquiry to the Prime Minister’s Office?

Now, we know, according to the Commission of Inquiry Act, it is the President who signs for a Commission of Inquiry. When the report is ready, the Commission of Inquiry sends the report to the President and then the President passes it on to the Prime Minister and then it comes to Cabinet. So, if there was no personal involvement of the then Prime Minister in that Dayal affair, why on earth, if the mover of this Motion can explain. In this judgment, it has been observed by virtue of evidence that it has been examined and was given to the Prime Minister’s Office? Why? And we talk about honesty and propriety! I am afraid that those who try to give lessons should go and probably review their attitude towards the Government and review their attitude towards how to do politics and redefine it, as my friend is pointing out ethical leadership.

Tonight, Madam Speaker, I must say that it is good in a way that the hon. Member came with this Motion of No Confidence. Can you imagine that they would have been making press conferences after press conferences on this issue and corrupt people’s mind? We would not have the opportunity to explain as we are explaining here all the technicalities involved. Can you imagine people would have believed them? Today, the Motion of No Confidence is shining on the other side of this House. People will know that they cannot have confidence in the Opposition like this. They can only have confidence in the Attorney General tonight. They know that they are in good hands. The people of this country, the youths, the children, the elders and the grandees can today say that they are safe in the hands of this Government and in the hands of this Attorney General.

On this note, Madam Speaker, thank you so much.

Madam Speaker: Hon. Uteem!

(2.29 a.m.)

Mr R. Uteem (First Member for Port Louis South & Port Louis Central): Thank you, Madam Speaker. It is half past two, but I am glad to see that the frontbench is there. The

hon. Minister Mentor is there and the Prime Minister, which shows the importance of this Motion.

This Motion has, at least, enabled us to hear another side of the story. Because as I am going to show later what has been said today in this House by the hon. Attorney General, is very different from what the same Attorney General stated in his press conference to justify the reason for making the payment to hon. Dayal. Let us also be clear, Madam Speaker, that we, on this side of the House, have nothing personal against the hon. Attorney General, hon. Maneesh Gobin, who as myself, is a Barrister, and I have known him for a long period of time. But we are not agreeable that this Government has come and we know now that it was a Cabinet decision that the whole Government approved this *ex gratia* payment. We are not agreeable that they approved the *ex gratia* payment of Rs15 m. Just like we are not agreeable that the former Commissioner of Police made an out of Court settlement because as I am going to demonstrate to this House, there was absolutely no reason to negotiate or pay a cent to Mr Raj Dayal.

Madam Speaker, hon. Attorney General started by reminding us of the very importance nature of his Constitutional post under section 69 of the Constitution. He is and I quote –

“(1) There shall be an Attorney General who shall be principal legal adviser to the Government of Mauritius.”

So, he is the principal legal adviser to the Government. So, when he goes to Cabinet and tells Cabinet: ‘We are reaching a settlement with the former Commissioner of Police’, he is wearing his hat as the principal legal adviser and he is giving his legal advice. The provision of 69 of the Constitution is very clear. You can be an Attorney General without being a Member of Parliament, but you have to be a Barrister. If you are not a Barrister, you cannot be Attorney General because your main role is to advise Government.

It is in that respect, Madam Speaker, that we support the Motion because we feel as the principal legal adviser to the Government, the hon. Attorney General erred when he recommended and Cabinet approved the payment of Rs15 m. or so to hon. Dayal. Madam Speaker, Raj Dayal was not anybody. He was the Commissioner of Police.

I wonder how many hon. Members in this House have taken the pain to read the three complaints with summons which were lodged by Raj Dayal against various parties, against the State, against the Commissioner of Police, against the Commission of Inquiry and the

members of the Commission of Inquiry. How many took the pain to read and understand what was the nature of the cause of action of Dayal against these people? It all bows down to one thing. He contested his dismissal as the Commissioner of Police. That was the basis. In some, he said that he suffered personal damages. His parents suffered personal damages. His family suffered personal damages. But the facts remain that all his course of action is rooted under one principle: he ought not to have been removed, suspended, faced by a Commission of Inquiry, faced by a Tribunal.

His removal, dismissal was unconstitutional, and he repeats it several times in his three pleas. A Commissioner of Police enjoys security of tenure. You cannot remove a Commissioner of Police just like any other civil servant, and the Constitution is very clear, Madam Speaker. It is found in section 93 of the Constitution - Removal of certain officers. This section of the Constitution concerns removal of the Electoral Commissioner, the Director of Public Prosecutions, the Commissioner of Police, and the Director of Audit.

Four constitutional positions which have security of tenure and cannot be removed unlike other civil servants who can be removed when there is a change in government. There is a provision in the Constitution which allows the Prime Minister to remove civil servants and appointees appointed by former Prime Minister. But in the case of these four people, the Constitution is very strict. So, the question that we have to ask ourselves in this House is whether the provisions of the Constitution were followed in respect of the former Commissioner of Police. And if it was followed, why we are compensating him for having been removed as Commissioner of Police.

Now, what does section 93 of the Constitution provide? Section 93 provides that, first of all, the Disciplined Forces Service Commission has to initiate the whole proceedings. This was explained very clearly in one of the many cases which hon. Dayal brought to Court. One of them was against the President of the Republic, and that was explained very clearly. So, unlike what the Government is alleging, this process starts by the Disciplined Forces Service Commission. If the Disciplined Forces Service Commission feels that there is ground, it refers the matter to the President of the Republic.

There are only two grounds: either the Commissioner of Police is unable to discharge his function by infirmity of body or mind or other causes or for misbehaviour. So, the Disciplined Forces Service Commission writes to the President and says, 'we think that there is sufficient ground to set up a Tribunal'. Then, the President, acting in his own deliberate

judgment - Raj Dayal contested the decision of the President to set up the Tribunal and he was thrown away. He appeared, thrown away, Privy Council also nothing. Everything was stated in the Supreme Court. You cannot challenge the decision of the President of the Republic, acting in his own deliberate judgment, under section 93(4) to set up the Tribunal.

So, first, the Disciplined Forces Service Commission informed the President of the Republic that there are grounds to remove him, to set up a Tribunal. Second, the President of the Republic sets up a Tribunal and the Tribunal is chaired by the former Chief Justice Rajsoomer Lallah, and then he has two assessors because the Constitution says that you need to have a Chairman and at least two assessors who have to be sitting judges or former judges of Mauritius or of the Commonwealth.

So, the strong Tribunal consisted of late Rajsoomer Lallah, former Chief Justice, hon. Kheshoe Parsad Matadeen, actual Chief Justice and hon. Paul Lam Shang Leen, former judge and now president of the Commission of Inquiry on Drugs.

Madam Speaker, I pause here to note that the Tribunal was set up after the Commission of Inquiry started. The Commission of Inquiry was actually set up on 10 October 1997, but the Tribunal was only appointed on 23 November 1997, one month later. Why? Because when the Commission of Inquiry was set up by the then President of the Republic, chaired by hon. Sik Yuen, Senior Puisne Judge, No. 2 of the Judiciary at that time, he had as assessors Mr Couldip Lala and Mr Lakshmee Narayen Ramtohum, and that Commission of Inquiry did not have as mandate to enquire on misbehaviour of Dayal, of the Commissioner of Police. No! At that time, there was a series of articles - I remember very well, I was in Mauritius. Week in week out, all the press was talking about 'Scandal of the Gate'; contract awarded to Kala Niketan, to late Mr Ramrachheya - he passed away. It is interesting, Madam Speaker, when we read the report of the Commission of Inquiry - it has listed out the terms - the Commission had to inquire into contracts awarded by the Police Department, and in particular to Kala Niketan and to Mr Ramrachheya.

The Commission interviewed a lot people, and at paragraph 3.2, this is what the Commission of Inquiry said -

“Another major witness was the Commissioner of Police, Mr Jayeshwur Raj Dayal. [CP]. The Commission spent considerable time in questioning him and he turned out to be the main witness.”

So, before that time, no one was targeting Raj Dayal. It is when there was a Commission of Inquiry, when information started cropping up that the Commission of Inquiry made this remark. And then, the Commission of Inquiry goes on to state at paragraph 4.3 of the prologue -

“(...) we cannot help remark, in contrast that, in spite of the fact that a Commission of Inquiry had been appointed to inquire , amongst other things, into the matters set out in paragraph (a) of the terms of reference, Mr Dayal, stayed in his office as Commissioner of Police until he was suspended from performing the functions of his office following the appointment of a Tribunal, pursuant to Section 93(4) of the Constitution, to investigate into a number of charges levelled against him.”

So, when the Commission of Inquiry started investigation and continued investigating, hon. Dayal was still Commissioner of Police. The terms of reference of the Tribunal were different from the terms of reference of the Commission of Inquiry.

In fact, in one of the cases - because there have been so many cases -, I came across the charges. There were actually 15 charges, which the Tribunal had to investigate. Some of them related to lying before the Committee, intimidating witnesses, but others had to do with increasing the number of units of disposable ammunition; failed to make arrangement for training of police/personnel; failed to assessing whether a local supplier was holder of a licence; failed to inform the Government that local agents were involved in supply of fire arms; failed to follow investigation related to case of assault; involved in events which have been prejudicial to law and order and to racial harmony; mishandled and made an abuse of power in the inquiry set up by the Secretary of Home Affairs on disclosure of classified information, and attempted to intimidate and induced Police Officers.

So, there were lots of charges which were before the Tribunal. And Tribunal, as I have stated, Madam Speaker, is an extremely strong Tribunal with Mr Rajsoomer Lallah, with Mr Matadin, with Mr Lam Shang Leen, and that Tribunal found him guilty as charge and under Section 93 (3) of the Constitution which says -

“Any such person – meaning the Commissioner of Police - shall be removed from office by the President if the question of his removal from that office has been referred to a tribunal appointed under subsection (4) and the tribunal has

recommended to the President that he ought to be removed from office for inability as aforesaid or for misbehaviour.”

So, when the Tribunal comes and makes the findings and recommends the removal, the President no longer acts on his own deliberate judgement. He is bound by section 93 (3) to remove the Commissioner of Police, and that is what he has done. And the former Commissioner of Police, Mr Dayal, entered numbers of cases. Whatever he can imagine, whatever legal points he can imagine, he entered. He lost them all until there was this case before the Intermediate Court.

The orator before me, hon. Rutnah, made a lot about this case before the Intermediate Court.

(Interruptions)

Mr Gobin: If my learned friend will give way. I am listening very carefully to what my learned friend is stating and before he moves on to the judgment of the Intermediate Court, I was eagerly waiting for my learned friend to give any indication of the document from which he was quoting from his beautiful iPad. It appeared that he was quoting from a particular document, but I could not hear him say which document it was, whether it was a judgment or a finding and could he provide it because as the leader of his party stated, we all want the truth in this case.

Mr Uteem: Sure, Madam Speaker. As I said, when I started there was a number of cases before the Supreme Court and this, what I have quoted was from the case of Raj Dayal against the President of the Republic of Mauritius reported in 1997 SCJ page 417. It is a decision by the then Acting Puisne Judge Mr Vinod Boolell delivered on 05 December 1997. So, he set out the charges. In this case, just for the benefit of the House what happened is, hon. Dayal sought to get an injunction to prevent the Tribunal from hearing the matter on the ground that he was not communicated the charges on the day he was suspended, but he was communicated the charges five days later. So, that is why the Judge set out this.

(Interruptions)

Mr Gobin: Thank you for that. Madam Speaker, if that was an application...

Madam Speaker: Is that a point of clarification or the point of order...

Mr Gobin: No, the point of order still...

(Interruptions)

If that was an application, and I'm sure it was an application for injunction to prevent for the Tribunal from proceeding with its hearing. I heard my learned friend say in his speech while quoting from the iPad that there was a verdict of guilty on all those charges he read. It cannot be so in an application for an injunction.

(Interruptions)

Mr Uteem: I have read the charges. The charges are what I have stated. Okay. So, am I to take it that today the hon. Attorney General is challenging the findings of the Tribunal and the decision of the President to remove...

(Interruptions)

No, I want to know! Because if this is the case...

(Interruptions)

Madam Speaker: Order, please!

(Interruptions)

Order, please! Hon. Attorney General, please! I think there are other Members on this side of the House who will intervene and they will be able to make the case. Please!

Mr Uteem: Madam Speaker, the reason I find that very objectionable is that the hon. Attorney General started by bragging, by saying: "Yes, I appeared before the Tribunal for the State. Yes, I won." But if you won, so you know, you have proved those charges. So, today, you are coming here in this House and you are saying that: "you won, but you didn't win!"

Mr Gobin: That is very unfair! The point I am making is, if reference is being made to a document like other hon. Members intervening before the hon. Member now, produce the document. I again repeat, like the leader of the party of my learned friend, hon. Uteem, we all want the truth. So, table it! This is my point. We all want to see clearly what happened in the case. If reference is being made to an injunction case, so be it. If reference is being made to the findings of the Tribunal, so be it. But let us be clear and let us all be cool. Yes, I also agree!

Madam Speaker: Would you be prepared hon. Uteem to table a copy of the document and the reference?

Mr Uteem: I don't have any problem tabling the copy of the cases, but I am sure the hon. Member has this case. But I don't have any problem to table this case.

Madam Speaker: Okay. Please, proceed!

Mr Uteem: Let us now move to this famous case of the charge before the Intermediate Court. Yes, there was a case. There were, in fact, three charges and I am reading from Director of Public Prosecutions versus Dayal and Anor reported in 210 SCJ page 314. That was the appeal case. So, in the appeal case, they made reference to the findings of the Magistrate's case. In this case, Madam Speaker, the Judge summarised the count under which Raj Dayal was prosecuted before the Intermediate Court, charged with giving false evidence before the said Commission of Inquiry, charged with forgery, charged with offence of conspiracy, charged for giving false evidence before the said Commission. So, that was what he was being prosecuted for. Nothing about the other finding in the Commission of Inquiry! And I will come to the finding of the Commission of Inquiry just now. So, he was charged because there were allegations made that he forged document; he intimidated witnesses before the Commission of Inquiry. And the case was dismissed for the grounds which have been already dealt with by hon. Rutnah, but I just want to put a comment. I am quoting from that -

“The trial judge made it clear – talking about irregularities – on what the respondent put forward as being serious irregularities, the trial court – the Intermediate Court – made it clear that each of them taken individually would not have been sufficient to warrant a stay of proceeding which is considered as being an exceptional measure. We are, however, of the view that the conduct of the inquiring authorities were of such a nature that when those irregularities are taken together in the light of the nature of the charges against the respondent, that it was unfair to try the respondent, and the Court of appeal did not find any reason to interfere with this judgement, with the findings by the Magistrate.”

But the decision of the Tribunal has never been subject of any dispute. Hon. Dayal, former Commissioner of Police, was never prosecuted for anything to do with his dismissal as Commissioner of Police and then he won the case. No! No! He won the case where he

was being sued for having misled the Commission of Inquiry, for having interfered with witnesses and he went – like rightly pointed out by the hon. mover of this motion – on technicalities. Not on the fact! There was no finding that he did not interfere with witnesses. There was no finding of facts. The case was dismissed because the Magistrate thought it was abusive to leave it to continue. But no finding that he was wrongly dismissed as Commissioner of Police.

Now, let's come to the Commission of Inquiry. I am not going to repeat everything which the mover of the motion said. In fact, I have to say that it was much more because I took the pain of reading it, and frankly, Madam Speaker, I cannot understand how hon. Members from the Government side are clapping, when they have given this person Rs15 m. after what the Commission of Inquiry has said he has done.

(Interruptions)

Yes! And Raj Dayal ...

(Interruptions)

Madam Speaker: Order!

Mr Uteem: Raj Dayal was not happy with what was in the Commission of Inquiry. He was not happy, so what did he do? He applied for Judicial Review! And this is the judgement, reference hon. Attorney General, Dayal V/s hon. Yeung Sik Yuen & Others, reported in 2002, Supreme Court Judgment 263. He applied for Judicial Review. Five pages of grounds for challenging the Judicial Review! And then what happens? At the hearing, learned Counsel for the applicant, Mr Dayal, only pressed ground one. After all that is said, you know, the eating, the sharing of *camarons*, these people from the automobiles coming and alleging that they have given bribe, not a word, nothing to challenge any of the fact! They pressed for only ground one, relating to *ultra vires*, and the ground relating to the alleged overpayment... This is what the learned Judges said -

“We consider that his approach is to be commended since, having thoroughly examined evidence on record, (...).”

This is finding of fact! Having thoroughly examined the evidence on record! In the light of the satisfactory explanations furnished in the affidavit put in on behalf of the Respondents,

hon. Yeung Sik Yuen, Mr Lala, and Mr Ramtohul, the members of the Commission of Inquiry.

On the satisfactory explanations furnished in the affidavit put in on behalf of the Respondents -

“We do not consider that there is any substance to the other grounds.”

Not me, not Labour Party, not mover of the motion, we are talking about hon. Pillay, Chief Justice.

(Interruptions)

Madam Speaker: Order!

Mr Uteem: Hon. Pillay, Chief Justice and hon. Judge Narayan, two Senior Judges who come and say that there is nothing. Nothing! They have perused everything, all the affidavit; there is nothing on all of the other grounds. All that was said in that Commission of Inquiry report is true. This is the finding of fact.

(Interruptions)

I am not giving way, Madam Speaker, unless it is a point of law.

(Interruptions)

He can interfere in the summing-up.

(Interruptions)

Madam Speaker: Is that a Point of clarification or a Point of order? If it is neither a Point of order nor a Point of clarification, then I do not think I can give you the floor.

Mr Uteem: Madam Speaker, even on the grounds raised - I am not here to defend Ramgoolam, I am here to defend hon. Yeung Sik Yuen...

(Interruptions)

I am here to defend hon. Rajsoomer Lallah ...

(Interruptions)

I am here to defend hon. Matadeen...

(Interruptions)

Madam Speaker: Order, please!

(Interruptions)

Mr Uteem: I am here to defend hon. Lam Shang Hin. I am here to defend the people

...

(Interruptions)

I am here to defend the people...

(Interruptions)

Madam Speaker: Order!

(Interruptions)

Order, please!

(Interruptions)

Please! Let me say that the hon. Member has the right to make his points.

(Interruptions)

He has the right to make his arguments. He has got the right to talk and make his arguments; others will the right then to reply to his arguments. Please, allow him to proceed in silence!

Mr Uteem: Thank you, Madam Speaker. I was talking about the Judicial. Even on the first ground, on the issue of collection of money in the temple, this is what the Judges said –

“The Respondents - Commission of Inquiry - had acted *ultra vires* and exceeded their mandate by investigating into the affairs of the temple.”

So, he won this point. The Commission of Inquiry should not have investigated on all the small cents and rupees that were collected in the temple. He won on this.

Then, on the point of –

“ (...) We consider that the Respondents had also exceeded their mandate with respect to 20 generator sets.”

Again, allow this, the Commission of Inquiry were wrong to deal with the 20 generators.

But, on the other point -

“(...) We are of the view that the Respondents were perfectly entitled to enquire into a contract entered into between the Police Department and NBA and make appropriate finding.”

So, his claim is dismissed.

“(...) We also consider that the Respondents were entitled to do this, dealings with free meals, in line with the terms of reference.

The application is otherwise dismissed”.

So, this is what was said by the Supreme Court on the Commission of Inquiry. Everything else was stated to be proven. The Judges said that they have perused the affidavit; they find no reasons, no basis to set aside the other recommendations, the other findings of the Commission of Inquiry.

Madam Speaker, I heard hon. Anerood Jugnauth, the Rt. Minister Mentor, talked about victimisation of Mr Dayal. Let me quote from paragraph 20 of the plaint written by hon. Dayal in the case where he is suing Government for Rs1 billion damages for him and his family, because of the findings of the Commission of Inquiry and the fact that he has been removed by the President of the Republic. This is what he said –

“On 19 February 2007, Mr Raj Dayal made representation to the then President of the Republic, arguing that his removal as CP was made in an arbitrary, unlawful and unconstitutional manner.”

And referring to the case which hon. Rutnah had just mentioned, the case of the Intermediate Court that had dismissed his case, what happened then. I don't know!

Hon. Attorney General, this is from the plaint! I don't know the veracity, but this is on the Plaint with Summons which was served on May 2014 by Mr Raj Dayal.

Madam Speaker: Hon. Member, can I just ask for a clarification, has this anything to do with the case for which he is being paid Rs15 m.?

Mr Uteem: Absolutely!

Madam Speaker: Okay!

Mr Uteem: This is one of the three plaints. I am quoting from one of the three plaints, that is, at paragraph 20 of the plaint, where the Rs1 billion claim resulted in an *ex gratia* payment of Rs15 m.

In the plaint, Mr Raj Dayal says:

“On 11 January 2018, I received a letter from Mr Gunpath, Secretary to the President, dated 07 January 2011...”

Very important the date, 07 January 2011! And what did the Secretary to the President, Mr Gunpath, write? This is verbatim, it is taken from the Plaint with Summons, and I quote so that the whole population knows what goes on in this country.

(Interruptions)

2011? We were not with Ramgoolam in 2011, they were! They were in alliance with Ramgoolam. This is what Mr Gunpath, the Secretary to the President said, and I quote –

“I wish to inform you that the Judgment of the Supreme Court dismissing the appeal against the ruling delivered by the Intermediate Court does not constitute valid grounds for the President to intervene as your removal from Office of the Commissioner of Police was validly effected in accordance with the provisions of the Constitution.”

That was on 07 January 2011. Who was the President of the Republic then? The President of the Republic said: ‘I am not going to entertain....

(Interruptions)

Madam Speaker: Order, please!

Mr Uteem: ‘I am not going to entertain because you were dismissed in accordance with the Constitution, rightly so.’ This is why we, MMM, are consistent; what you said in 2011, you should not have changed it in 2018...

(Interruptions)

Madam Speaker: Order!

Mr Uteem: 2011, you refused to compensate!

(Interruptions)

2011, you refused to compensate!

(Interruptions)

Madam Speaker: Order, please!

Mr Uteem: So, am I to take it, therefore, the position of the President, his notion of justice depends on who is his partner in alliance? Am I to take it that in 2011, when the Prime Minister was Navinchandra, the best Prime Minister, the other one was raising the flag at the by-election, it was whose? Whose? Whose? Whose?

(Interruptions)

Then, no compensation for hon. Dayal!

(Interruptions)

Madam Speaker: Order!

Mr Uteem: No compensation for Dayal! No, Dayal was removed in accordance with the Constitution. Sorry, we cannot intervene! Sorry we cannot intervene!

(Interruptions)

And I have to say rightly so, Madam Speaker...

Madam Speaker: Order!

(Interruptions)

Mr Uteem: Rightly so, you cannot have different judgments. You cannot have a different scale of justice depending on who are your allies.

(Interruptions)

Madam Speaker, much has been said about the Public Officers' Protection Act. Much has been said about it. I do not propose to take too much time of this House because I think it is a legal issue, and in my humble opinion as a Barrister, I think that the objection was very well taken. The hon. Attorney General stated that there was a letter, which was given by the former Commissioner of Police, making an offer of Rs5 m. That offer was rejected. Hon. Dayal, in May 2014, entered his cause of action and then the State, on the advice of the State Law Office, took the preliminary objection that it was in breach of the Public Officers' Protection Act. The Public Officers' Protection Act is a very inhumane and unfair Act because its wordings are mandatory. There is no place for any interpretation. If you have not

served the civil and criminal suits within two years from the date of the fact, of the act or the omission which has given rise to the action, suit or other proceeding under pain of nullity.

The Law Commission has criticised and has made recommendation for the law to be changed, but the law has not been changed. I would just quote from a decision, which I think summarise the situation well. It is a decision of Justice Fekna in a case last year, Ramnarain, Ministry of Health 2017 - SCJ 320. He reviews all the case law and then he states -

‘The Law Reform Commission has in a discussion paper, entitled: ‘Access to Justice and Limitation of Action against Public Officers and State’, suggested among other proposals for reform - changes that were made in England. However, the hard fact is that such proposal lends support to our interpretation of the law as it has been laid down by Parliament and, therefore, while commenting that the fairness of Section 4 of POPA may be a matter for the conjuration of the Law Reform Committee. The learned Judge applied the reasoning in the case of Mungroo and uphold the plea *in limine litis*.’

Unfortunately, Madam Speaker, there has been a lot of unfairness. There have been cases where people have rightly argued: ‘But you know, I did not know at the time the surgery was carried out, the medical negligence was carried out, I did not know there was a medical negligence. But as soon as I found out about it, that is, when I entered the action and, therefore, the action should start from the day I become aware of my course of action.’ As it is the case in England; unfortunately, systemically, the Judges in Mauritius would say -

‘Unfortunately, we cannot do anything.’

There are people who have been claiming millions of rupees who have lost because this is a statutory provision. And hon. Rutnah, I think it is very unfair because there is a lot of non-lawyers in Mauritius. He quoted from a book, rightly so, that a *mise en demeure*, admission stopped the *prescription*, which is true, which is correct. A civil prescription is stopped, which is correct; I do not have any problem with that. But it only stops or interrupts a prescription which is ongoing. But if the time is over, if the case is over, even after 10 years, after 15 years, you decide to make an offer, it does not have any impact on the clear wording of the Court which says that it is two years from the date of the facts.

So, the facts on which hon. Dayal grounds his action was not: ‘Last year, 2013 I was made an offer’. No, he does not say that. When he particularised all his points why he is claiming Rs1 billion, he does not mention: ‘I am claiming Rs1 billion because last year the

Secretary to Cabinet has agreed to give me Rs5 m.’ No, he does not say that at all. What he says is: ‘You know, I have been unfairly removed as Commissioner of Police’. And this happened on 30 of January 2000’, 18 years ago or 14 years before he entered his case.

It is also not correct; I think it was the Rt. hon. Minister Mentor, who said that he waited for this case of appeal against the Intermediate Court Judgment to be over that he started suing the State. It is not correct. I have a judgment here, Dayal and the State reported in 2007 - seven years before, he was still claiming money from the State - 2007 Supreme Court Judgment 310. And in this case, the judgment was delivered on 16 November 2007. This case is very important, Madam Speaker. This is why I do not understand how the State Law Office and the hon. Attorney General, in the light of this case, agreed to a settlement.

What happened in this case; hon. Dayal - well, he was just Raj Dayal at that point - sued the State and he entered the wrong case and he moved to amend the pleadings. And he said –

‘You know, it was through infelicitous drafting that the words ‘Commission of Inquiry’ was inserted in paragraph A’, when the plaintiff did not, in fact, mean Commissioner of Inquiry but meant the State.

So, he tried to amend the plaint after it was lodged and the Judge upheld the objection to the amendment. And do you know what was one of the grounds? I will read it and it is good that the Attorney General, as the legal adviser, hears this –

‘I do not allow the amendment for the following reasons –

2. It will cause prejudice to the defendant, to the State, in that the delay provided under section 4(1) of Public Officers’ Protection Act for instituting proceedings and the requisite prior notice in that respect would not have been observed by the plaintiff in respect of the new cause of action.’

There is a decision where this point was already taken and following the point taken by the defence, by the State Law Office, Dayal removed his case against the State. So, now, what does he do? *Li veiller!* He sees who is in power. Will I get my *boute?* *Travaille!* I try my luck. Now, the President does not want to give me something in 2011. In 2013, let me try. Now, in 2018, yes! Finally, I get it. Jackpot! Rs15 m.!

Madam Speaker, I started my intervention by saying that it was good that this Motion came before the House because even myself I have been enlightened about a lot of things

which I did not know. I have to say, were it not for this Motion, I would not have gone and do all the search that I have done and found at what extent Government comes and perverts facts. Whenever it suits them, they say, 'It is well taken by the President. The President was right to dismiss him and we cannot intervene'. Whenever it suits them, they will say, 'He was victimised'. Why was this really important? Because the hon. Attorney General, on 02 June 2018, went and called for a Press conference. This is what he said. I heard the recording, but I am just going to quote in French -

« Raj Dayal a été une victime de l'ancien régime, puisque la décision prise à l'époque de le révoquer était purement bancale.»

Only on that point, Madam Speaker, the hon. Attorney General disqualifies himself. Who is he calling *bancale*? The Discipline Forces Service Commission which referred the matter to the President of the Republic or the President of the Republic who constituted the Tribunal? Was that *bancale*? Was hon. Rajsoomer Lallah, Chief Justice, hon. Matadeen and hon. Lam Shang Leen *bancale* when they recommended the removal of hon. Dayal? Was the President, when he acted in accordance with section 93 and removed the Commissioner of Police *bancale* or was the Secretary to the President in 2011, Mr Gunpath, who wrote to Mr Dayal and told him that everything has been done in accordance to the Constitution and the President cannot intervene, *bancale*?

So, Madam Speaker, I find it troublesome, very sad when people were applauding. I can understand that now Raj Dayal is part of their midst, but we should not forget that there have been reputable Judges who have recommended his removal as Commissioner of Police. There have been cases before the Supreme Court challenging the findings of the Commission of Inquiry, which have been set aside on most grounds by the Supreme Court.

Madam Speaker, there is another thing I learnt - and I will end on that - which troubles me a bit, I have to admit. The hon. Member, mover of the Motion mentions about conflict of interest. I do not have any problem with the hon. Attorney General having been member of the State Law Office and having conducted the case in favour of the State before the Tribunal. I do not have any problem with that. I do not have any problem in his capacity now, he is advising of the Government, although I think that, in his capacity, having known what has happened before the Tribunal, he was duty-bound to inform Cabinet that three Judges, two Chief Justices recommended the removal for misbehaviour, which is not a simple thing.

But what I find troubling, Madam Speaker, is that the hon. Attorney General conceded that he acted for Raj Dayal in a case, which he boasted that he won in advance. Isn't that a conflict of interest? Is not he supposed to, at least, disclose it and say, 'I need to tell you, I am advising you, but he is also my client.' I do not know if he has been paid for his services. But you know what is worse, Madam Speaker, and which is more troubling me? It is that if ever what he did was unethical, if ever there was a breach of the code of conduct for Barristers in a situation - because all Barristers know, whenever you feel that you are in a position of conflict, you have to disclose it to the party, get the consent of the party to act - if ever he had breached that provision, do you know what is disturbing, Madam Speaker? Under the Law Practitioners Act, it is the Attorney General who has to enquire. Then, if he feels that there is any ground, he refers it to the appropriate authorities, whether it is the Bar Council or before the Supreme Court.

As I have said in the beginning, Madam Speaker, we do not have anything personal against the hon. Attorney General, but when I see the way this case has been handled and what I saw today, the way this House is clapping and applauding the payment of Rs15 m. to someone who has been removed as Commissioner of Police, I think that not only the Attorney General but the whole Government should have been the subject of a Motion of no confidence in this House.

Thank you.

Madam Speaker: Hon. Collendavelloo!

(3.20 a.m.)

The Deputy Prime Minister: Madam Speaker, let me start with one little fact on this Motion. This Motion was set down to be heard on 10 July last. On 06 July, the hon. Prime Minister talked and said something of great importance. He told us that this Motion is coming on 10 July, but the mover of the Motion, so he hears, is not going to be in the country and it is going to be unfair that we keep that Motion because his Motion would lapse. In front of me, he said he would phone the Chief Whip, so that the Chief Whip can contact the mover of the Motion and we all reach agreement that we will hear the Motion on his coming back.

Why do I start my intervention with these words? It is because I was pained to hear the mover of the Motion, not suggesting, accusing the Prime Minister, of course, no one else, of having strategically calculated to put this Motion today.

(Interruptions)

Well, yesterday!

That is not correct, that is not true, and we have to correct it. Because if the Prime Minister had been unfair, he would have allowed the Motion to come after 10 July and the Motion would have lapsed purely and simply, and nobody would have heard anything about the mover of the Motion. That is the first thing.

I do not want to be very long, but today is an epilogue in what I shall call the longest legal and political saga of Mauritius, and I shall call it the Ramgoolam-Dayal saga. That is a fact. Hon. Bérenger was right to say that memory goes back. It is right that we have had this debate. This started when hon. Dayal, on 23 November 1997, was informed of the disciplinary proceedings by the President of the Republic. He was suspended from office and he appeared before the Disciplinary Committee. We have got to be economical with time. I shall not go into the details. Former Chief Justice and two sitting Judges in the Tribunal. That was in accordance with the Constitution, this Section 93 which was brandished by hon. Uteem. But what happened, hon. Dayal, as was his right, challenged and lost his challenges before the Supreme Court against the Disciplinary Tribunal.

What did the Prime Minister of the time, Navinchandra Ramgoolam do and it is good that hon. Rutnah spoke about it. On 31 May 1999, he put a Bill in order that notwithstanding Sections 91, 93, 116 or any other provision of this Constitution, the Office of the Commissioner would become vacant where following the findings of a Commission of Inquiry, we have forgotten the Tribunal now, he went on the Commission of Inquiry appointed under any enactment and chaired by a Judge if the Assembly passes a resolution supported by the votes of not less than three quarters and that amendment would have been deemed to have come into operation on 01 January 1994.

As the then Leader of the Opposition said, this was a legislation *ad hominem* passed by recidivist of that sort of action, as quoted from Hansard by my learned friend, Rutnah. That is what happened in 1999. On 31 January 2000, he receives another letter from the President of the Republic, he is dismissed because says the President, the Disciplinary Tribunal, not the Commission of Inquiry, the Disciplinary Tribunal has found him guilty. But what is amazing, as hon. Rutnah pointed out, we know that papers were left not at the President's Office but at the Prime Minister's Office and what is amazing is that a man who

was, whether rightly or wrongly, but he was dismissed losing his salary, his job, his lump sum, never got to know the reasons why he had been dismissed. He clamoured for a copy of the report. Up to today, nobody knows where that report has gone and why Mr Dayal was dismissed from Office. Recidivist! And it is not strange that today the motion is made by a Member of the same Ramgoolam Party supported by a second Member of Ramgoolam Party and it is not strange that we heard the intervention which hon. Bérenger made today in the House.

What is strange is what hon. Uteem said. In marked contrast with what his Leader said. But hon. Uteem merely repeated what the mover of the motion said. Now, the mover of the motion I can understand in the particular circumstances that he would say all that he has said. He has moved a motion, that is his ground, but hon. Uteem, after they have said all this in 1999, after they know, perhaps we felt Mr Dayal should have been removed or we felt otherwise, that is another matter. But today everybody comes and supports the Motion not because of the Tribunal of Mr Chief Justice Lallah, no, because of the findings of Mr Sik Yuen, Mr Ramtohol and Mr Couldip Lallah. That is the point made, the Commission of Inquiry and on this, hon. Uteem - and I made the distinction with the mover of the motion - bases his whole argument, but when hon. Uteem cites the Commission of Inquiry and the judgments of Mr Dayal, he forgets to say one thing.

What the Judges of the Supreme Court said in their opening words on delivering the judgment in the appeal which the Director of Public Prosecutions had made. Director of Public Prosecutions versus Dayal! Mr Dayal what has got to be said is that after the constitutional amendment had failed because it was not pursued, after that attempt to amend the Constitution had failed, the Disciplinary Tribunal, we don't know what was said in the report, there was a shift, there was a manipulated shift by the Government of Navin Ramgoolam whom hon. Uteem so ardently supports today.

(Interruptions)

The Judges started by saying because Mr Dayal, in this remarkable shift, they stopped on that process of disciplinary proceedings because we did not hear the report at all. They prosecuted him before the Intermediate Court, just as is being done today by hon. Uteem and by the mover of the motion, they prosecuted him before the Intermediate Court on the basis of the Commission of Inquiry report. The offences in respect of which the respondents were prosecuted relate to the evidence that were ushered before the Commission of Inquiry

appointed on 10 October 1997 to enquire into a contract for the supply of goods awarded by the Police Department since 1992. Commission of Inquiry forgotten because when it came before the Intermediate Court, ‘we have given anxious consideration to this issue’, said the Magistrate ‘and we cannot help being suspicious that there was an attempt to hide certain facts and/or influence the decision of the prosecuting authorities. We find that this amounts to manipulative practice. We wonder whether there may be other documents or statements which might be available but which the Court, the prosecution and the defence are not aware of.’

This is why the mover of the Motion and hon. Uteem are so silent about the report of Chief Justice Lallah because there was manipulation and then the Magistrate says -

“We find that such conduct from those who are involved in criminal investigation is deplorable and should be discouraged, etc, and bad faith, serious fault on the part of whoever.”

The Executive had gone to that extent and the Commission of Inquiry cannot be used today. There is one little point in answer to the long submission - because I call that a submission – on the part of hon. Uteem. If what he is saying is so right, why then did the Government in 2013, if we believe him, out of the blue would have offered money and accepted being indebted to Mr Dayal? If there was no debt, if the case was so strong for Government, if the Commission of Inquiry finding was so bad as we hear and we have read – I have also read that report. I could also say many things about that report - out of the blue in 2013. And what is amazing is the limitation period. We all know and the State knows, and the State knew because in a judgment the State had objected to an amendment proposed by Mr Dayal on the ground that it was outside the limitation period. So, the State knew that all actions by Mr Dayal would have failed under POPA. What did they do? They broke the limitation period. When the Commissioner of Police writes this letter, don’t tell me Mr Rampersad out of the blue just writes the letter. He had received and you must have known the letter of the computation of the Accountant-General. What is amazing! The Commissioner of Police does not say ‘without prejudice to our right to claim benefit of the Public Officers’ Protection Act, we are willing to make an offer on humanitarian grounds or whatsoever’. No!

Consciously, they interrupt that limitation period and it is in 2013 that the clock starts ticking. Let us not go into a legal argument because this is not a Court of law. The point is that the Attorney General, as legal adviser of the Government, was entitled to take the view

that it took of the case. And after that, when you raised the matter, of course, he disclosed everything including the fact of his ancient involvements in the matter. And I have got to say it again so that it be placed on record; everything was disclosed. And he said, the Mediation Judge! This is referred by the Chief Justice to the Mediation Division of the Supreme Court. What do you think? It is a joke! The Mediation Judge! The Judge would have *acoquiner* with Mr Dayal, Mr Madhub? Mr Madhub would have cohorted with Mr Dayal to give him Rs15 m.? That is what they are trying to make us believe because that is the logical conclusion of their argument. This was not a settlement behind doors. It was in Mediation before a Judge. Therefore, the arguments of hon. Uteem are not founded and cannot be acted upon. The long and short of it, Madam Speaker, is that just as the Labour Party of Mr Navinchandra Ramgoolam had started a feud against Mr Dayal, today, the epilogue is that same feud and luckily the population has seen the truth in the matter and I shall, with no hesitation, vote against the motion.

Thank you, Madam Speaker.

Madam Speaker: I suspend the sitting for 10 minutes.

At 3.40 a.m. the sitting was suspended.

On resuming at 3.54 a.m. with Madam Speaker in the Chair.

Madam Speaker: Hon. Gayan1

(3.53 a.m.)

The Minister of Tourism (Mr A. Gayan): Madam Speaker, I thank you for giving me the floor very early this morning.

In fact, in the absence of the mover of the motion, I wanted to say that this is a very important motion because it has enabled, at least, this side of the House, to put before the nation, before the whole people the full picture of what the Dayal saga is all about.

The mover of the motion, Madam Speaker, spoke a lot about the Commission of Inquiry presided over by Justice Sik Yuen, and when I look at the motion itself, the wordings of the motion, and I quote –

“ This Assembly has no confidence in Honourable Maneesh Gobin in his capacity as Attorney General and Minister of Justice, Human Rights and

Institutional Reforms, in view of his role in the matter opposing Jayeshwur Raj Dayal, CSK, PDSM, QPM, to the State of Mauritius with regard to his claims following his removal from the Office of Commissioner of Police on 31 January 2000.”

The issue of removal from Office has nothing to do with the Commission of Inquiry. According to the Constitution, it is only the Tribunal, set up by the President of the Republic that can investigate whether there has been a case of inability to function on the part of the Commissioner of Police or whether there has been misbehaviour. One thing that was mentioned by hon. Shakeel Mohamed was this issue of ethical leadership. Let me say something about ethical leadership. In fact, he is not here. If you go on YouTube and click on the name of Shakeel Mohamed and Rujubali family, one will get an idea of what ethical leadership is all about and I will invite the whole population to do that. But let me come to the ethical leadership of the Labour Party, of which the mover of the motion belongs.

As was mentioned by the hon. Deputy Prime Minister, on 31 May 1999, there was a proposed amendment to the Constitution by Dr. N. Ramgoolam, who was then the Prime Minister, and the purpose of that amendment was a law *ad hominem*. It was an amendment to Section 93 of the Constitution, and it said -

“Notwithstanding Sections 91, 93, 116 or any other provision of this Constitution or any other enactment.”

It means, forget about anything about legality; this amendment was going to take care of what the then Labour Party was going to do, and said –

“ The Office of the Commissioner of Police shall become vacant where following the findings of a Commission of Inquiry appointed under any enactment, and chaired by a person who holds or has held Office as a Judge to the Supreme Court, the Assembly, on a motion made by the Prime Minister, passes a resolution supported by the votes of not less than three-quarters of all the Members of the Assembly and requiring that, in the public interest, the Commissioner of Police shall, irrespective of the terms of his appointment, vacate his Office. ”

Is this ethical leadership on the part of a Prime Minister by passing all the acquired rights of a person and coming to the Assembly with a motion to remove, through the legislature, something that only the President could do?

In fact, this was a magnificent case of ethical leadership when the Prime Minister was usurping the powers of the Constitution which have been given to the President by making Parliament act as a legislature, passing a judgment on a Commissioner of Police. I am not talking of this Commissioner of Police who was removed, but whoever, whenever there is a finding of a Commission of Inquiry. So, it was this kind of ethical leadership that prompted hon. Dayal to say, that whatever had happened to him was a matter of political vendetta, of victimisation. In fact, in the cases that he had lodged, in his claims, as mentioned in the motion, he does mention, for example, in “*L’Express*” of *dimanche 02 mai 1999*, the then Prime Minister has said that he was going to come with a *projet d’amendement à la Constitution qui sera présenté au Parlement pour permettre la révocation du Commissaire de police, a annoncé Navin Ramgoolam à Beau Bassin.*

Then, Sarat Lallah, who was the *secrétaire du Parti travailliste : le projet de loi visant à amender la Constitution pour destituer M. Dayal de son poste de Commissaire de police est actuellement en train d’être rédigé.*

And when the Commission of Inquiry was on, hon. Dr. A. Boolell, at a meeting at Trou d’Eau Douce, said –

“Fodé pas entrave commission d’enquête par zott présence. Commissaire pas commissaire ti bizin step down, et laisse commission d’enquête ale faire so travay. »

And this is why, rightly or wrongly, the impression created in the mind of hon. Dayal was that there was a political vendetta, and everything was being done to get him out of the post of Commissioner of Police. There were many cases that were lodged by hon. Dayal, but Mr Dayal then. It is important to bear in mind that there were cases about his not having his personal belongings when we was suspended from Office, and that when he went to collect them, he did not get everything that he had left at the SMF.

There were three cases and all of them related mainly to what had happened against him when he was Commissioner of Police. In fact, there was one case where he was arrested and charged in 2004 for something that had happened in 1994. All these cases went to Court. He was charged and there was nothing that was made to stick in terms of conviction or anything else.

In fact, all the cases, whether they are for technical reasons or whatever, because I heard someone say that hon. Dayal was let off on a technically, but this is the way the law

operates. Whether it is on a technicality or on whatever, the blunt fact remains that the judgment was in favour of Dayal. Technicality or otherwise, this is the blunt reality, but it is important to bear in mind, when we talk about the vendetta, that manipulation of the system to get Dayal out.

Other friends on this side of the House have talked about the letter of the Commissioner of Police then, which was tabled by hon. Maneesh Gobin, about the offer of Rs5 m. etc., but what is significant, Madam Speaker, that offer of Rs5 m. and something was not made out of the blue by the Commissioner of Police, it had been worked out by the Office of the Accountant-General, together with the Ministry of Civil Service Affairs, and the Human Resource Manager of the Police.

I have a letter here, Madam Speaker, dated 03 September 2013 from Accountant-General to Commissioner of Police, *ex-gratia* payment to Mr Raj Dayal.

“Please refer to your letter dated 28 August 2013, and find details of computation of *ex-gratia* lump sum to Mr Raj Dayal former Commissioner of Police as per specifications laid down in paragraph 2.”

And there is one first amount which is calculated at Rs1,755,129.61, reduced pension for period 2000 to 2009, Rs3,968,640.07, and additional compensation of Rs9,000,000 and something, making a total of Rs15,160,782.28.

“It is to be pointed out that Mr Raj Dayal has accumulated 170.42 days of vacation leave, beyond ceiling, and eligible for an additional amount of Rs241,000.”

This is the computation of the Accountant General. This is dated 03 September 2013. On 23 October 2013, the Secretary to Cabinet and Head of Civil Service wrote to the Commissioner of Police and said the following, and I quote -

“After consultation with the Ministry of Civil Service and Administrative Reforms, approval is hereby conveyed for the payment of a one-off all inclusive *ex-gratia* lump sum of Rs5,723,769.68 to Mr Dayal as follows:”

And then paragraph 3, this is important -

“It is understood that this amount has been computed by the Accountant General and is subject to tax deduction as applicable before payment.”

In fact, the computation of the Accountant General gives a different figure. If this is not political vendetta, what is it? How is it possible for the Secretary to Cabinet to say that the amount mentioned in his letter has been computed by the Accountant General, giving a figure which is much less than the figure actually computed by the Accountant General? This is something which also goes to support the case of manipulation and a deliberate attempt on the part of the authority of the then Prime Minister and the then Government not to give to Mr Dayal what he was eligible to.

Now, of course, a lot has been said. But there was the point taken under POPA (Public Officers Protection Act) that there was a time limitation and the claim was time-barred. Hon. Maneesh Gobin has explained that there had been an interruption of the limitation period once the Commissioner of Police had sent the offer to Mr Dayal. It was not an offer made through lawyers, it was a straight offer made by the Commissioner of Police, and all lawyers know that when you make an offer of this nature, we normally put 'without prejudice', but there was nothing mentioned about 'without prejudice', and that interrupted the limitation period. That was in 2013. The case is lodged in 2014 and, therefore, the whole argument that we have heard about the limitation period cannot hold because it was open to Government, then, to insist that the course of action has arisen at a certain point in time and it was time-barred at the time that the case was lodged. This is why hon. Maneesh Gobin said that his hands were tied with that letter. And once his hands were tied, there was nothing he could do, except to proceed with whatever happened at the Mediation Court.

I do not know whether the mover of the Motion has talked about what went on at the Mediation Division of the Supreme Court, because at the Mediation Division, everything is confidential. It is only when the parties give their consent in writing that something can be disclosed. So, I fail to understand how a matter of this nature has become public when the parties have not given their written consent or if there is an order by the Mediation Judge. I do not think that this point has been canvassed, but it must be canvassed because we are talking, in this Parliament, on an issue of law, and the Mediation Division has rules, and it would appear that the rules have been violated and no sanction is being envisaged for the breach of the rules.

Madam Speaker, I mentioned in the beginning the amendment to the Constitution, but now that the mover of the Motion is here, let me quote from the debates that took place on that proposed amendment to the Constitution to remove Mr Dayal as a result of the findings

of the Commission of Inquiry. The Prime Minister, then, moved the Second Reading and said

-

And just to show ethical leadership, I am quoting from what the Prime Minister, then, said -

“Mr Speaker, I would like to mention two things.

Firstly, there might have been a small technical error which has crept in, in the Bill, in clause I of the Short Title. When the Bill is enacted, the Bill will be cited as the Constitution of the Mauritius (Amendment) Bill 1999 instead of the Constitution of Mauritius (Amendment) Act of 1999. I just mention it *en passant*, Mr Speaker.”

In their mind, the Act had already gone through. It was no Bill. So, this is ethical leadership.

Madam Speaker, the Prime Minister, then, goes on to give reasons as though the national interest was so important, and he said -

“Law and Order is still an issue today, though as I said just now, it may take with time new dimensions.”

And he says that public interest has to prevail over public individual rights, and this is why he needs a substantive Commissioner of Police to be in that position.

But what is significant is what hon. Bérenger said after, because he was then the Leader of the Opposition, and I quote from what he said then, and I support what he said -

“We have already made our stand perfectly clear that the amendment proposed by the Labour Government hits, damages a fundamental aspect of the Constitution and a fundamental aspect of democracy itself. It is dangerous, undemocratic, unacceptable. This, we have already made clear.”

And this ethical leadership on the part of the Labour Party! And then he goes on. He is much more violent later on. It is interesting to read what happened during these debates because then you get to hear exactly what goes on in the mind of people. But, then, there is also something very important, Madam Speaker. Dr Chady said -

“What is democracy? One must have respect for institutions, for people who are at the head of these institutions. Mr Speaker, Sir, people do not stand up when the Speaker comes in.”

(Interruptions)

I was saying, Madam Speaker, that the Debate then was a lot about institutions.

Let me quote again from hon. Bérenger because they were telling him lots of things about 1982. I'll get to 1982. Don't you worry! I hope that hon. Deerpalsing will have come back because I will quote from him also. Just wait! *Vous ne perdrez rien* –

“Why do I call the Labour Party, a *parti de récidiviste* when we are not around to keep them in check? Let us go back to the past. Who dared amend the Constitution to postpone general elections? Who, in 1969, amended the Constitution as if elections held at a given year would have been held five years later? There has never been a worse rape of our democracy than that. Who, in September 1970, after they were *massacré* at Pamplémousses/Triolet, abolished Parliamentary by-elections? Who abolished Municipal elections? Who voted *les lois* POA and IRA?”

And he goes on and on. And then they call of ethical leadership! This is why, Madam Speaker, when the mover of the Motion spoke of ethical leadership, I was wondering whether we were in the same planet or we were somewhere else.

Let me also, Madam Speaker, say something about mediation, for those who are listening to us, I hope at this early hour, mediation is something relative new in Mauritius. We have the traditional Courts where litigation is between plaintiff, defendant, etc., but then it was realised that not all cases are suitable for a proper litigation. And then the Supreme Court decided to have a Mediation Division where people can go informally before a Mediation Judge. They can exchange their views and, very often, it works. People understand each one's position. Very often, it is easier to come to a resolution, which is called alternative dispute resolution through mediation than through a full blown out trial. This is not only something which is happening in Mauritius. It is gaining in popularity. This is exactly what happened in this case. Once the issue of time bar was no longer operative, then the Attorney General and his Office went to the Mediation Judge and then this agreement was reached.

One has to ask the question: 'what is the role that the Attorney General played to justify a Motion of no-confidence in him for this particular claim, which Dayal had against the State?'

At the time the cases were lodged, he was not Attorney General. At the time the plea was filed, he was not Attorney General. *Alors, il prend le train en marche. Et quand il prend le train en marche, il doit faire ce qu'il doit faire en tant que conseiller principal du gouvernement de Maurice.* He did exactly what the previous Government had done, ought to have done in fact. Had the previous Government been fair, they would have offered the whole package as computed by the Accountant General. They did not. So, I really fail to see what is the role that the Attorney General has played to justify a Motion of no confidence. The mover of the Motion said he ought to have known about the background to the case. But Dayal is not on trial today. The Motion of no confidence is not against Dayal. The Motion of no confidence is again the Attorney General. What happened in the Sik Yuen Report does not concern the Attorney General. If there were things that had to be done by the previous Government with regard to what the Commission of Inquiry had done, that cannot be placed at the door of this Attorney General.

This is why I think that this debate we have been having in the House is very important because it is an eye-opener. Many people outside did not know what they know now. Many people would have gone on the impression that there was no justification at all for what Government did. But what the Attorney General did was as a result of the harm that had already been done by the previous Government. Had they not sent the letter to Mr Dayal personally, maybe we would not be where we are. But then this is Mauritius. Everything is blown out of proportion. Everything takes a dimension which no one had thought of. I hope in fairness to the Attorney General and in the light of what has been tabled, I hope that the mover the Motion comes up as a gentleman to say: 'Maybe I was mistaken. Now that I have all the information, I am going to withdraw the Motion'. But in case he does not, we are going to vote against the Motion. And in case you don't, at least, say sorry for what you have said about him. Then the whole nation will know about the kind of a gentleman or lack of gentleman you are because in this House we have to be fair to each other.

When I am speaking, Madam Speaker, I am speaking because I have a very high regard for truth and for fairness. Too often in this House and outside, people destroy the reputation of others unfairly. Too often! Fortunately, we have had this debate. We are not here today to judge Dayal. We are here to debate a Motion of no confidence in the Attorney

General, on his role, as though he was instrumental in handing over Rs15 m. to Dayal. That is the perception that is created outside. And that is the perception which the mover of the Motion wanted to create in this House. But fortunately, I could see, I watch the body language of everybody when someone is speaking. I could see the body language of many people on the other side when hon. Gobin was talking, because this was the first time that they were in presence of facts and information that they did not have. What are they talking about outside? 'Oh, Dayal has got the money because he was threatening to resign and provoke a by-election in No. 9.' That's what they were saying. And they said it in the House.

(Interruptions)

Today also. The people out there might believe that kind of ...

(Interruptions)

I was going to say something else, but you say nonsense, I'll take your word for it.

This is why I say, Madam Speaker, we have to be fair to each other. If something is bad, fine, but we cannot build a case when there is no case at all. This is why, Madam Speaker, we are going to vote against the Motion.

I thank you, Madam Speaker.

Madam Speaker: Hon. Dr. Boolell!

(4.21 a.m.)

Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes): Madam Speaker, the Motion moved in the name of hon. Mohamed is amply justified. Before I come to the main thrust of this Motion, let me remind our friends on the other side of the House that they cannot suffer from selective amnesia and they dare to talk of ethical leadership.

Let me remind them of the colourable device that was used to unseat a Leader of Opposition or the majority which they could not muster when they circulated the Bill to unseat a holder of a constitutional post. I have in mind, of course, the Public Prosecution Commission Bill. So, we have no lessons to learn from them, but they have to be decent and the truth has to be spelt out. The process was initiated and there was due process that was followed to come and say that there was an attempt at political vendetta, smear of a campaign, which they are trying to wage inside this House and outside. And it would stand.

What have we learned is that there was a Commission of Inquiry, the findings of which have been spelt out, the salient features of this Commission of Inquiry and they cannot remain as if it is something that they don't want to hear of.

They have to be sensitive to the findings of this Commission. These are the naked truth. The Commission was chaired by a former Chief Justice not by an agent of the Labour Party, Madam Speaker. And there was another finding submitted to the President which confirmed that there was every reason to remove Mr Dayal as Police Commissioner. These are facts based on sound evidence dispensed by two former Chief Justices and nobody less than two former Chief Justices, Madam Speaker. So what are we saying?

We are saying what others are saying, the common man in the street, the lawyers; they are saying that wrong advice was dispensed to Cabinet by the Attorney General. And this is a statement of fact, he cannot run away from this, there is evidence of conflict of interest and in a Cabinet when you have to disclose, you have to make sure that the disclosure is mandatory. When there is conflict of interest, you cannot shy away or run away from your responsibility. The Prime Minister was in Cabinet and, of course, he disclosed the interest that he had in a particular case.

The Attorney General, knowing perfectly well that he was the lawyer of Mr Dayal and an officer of the State Law Office, standing next to late Mr Bhaukaurally, should have disclosed this information in Cabinet. So, don't come and say that there is no conflict of interest, there is conflict of interest and they cannot run away from this, Madam Speaker. But then, this is also a politically loaded case and I ask the simple question, which is being asked by the common man. Had Mr Dayal not been a Member of Parliament, would he have been dispensed this special favour?

What is true for Mr Dayal should be equally true for those who have submitted their cases for fair compensation? This is a statement of fact, go and talk to the common man and ask them whether they would have the same treatment that was dispensed to Mr Dayal. And the actions of these victims are justified because in their cases, their cases were lodged on time before the Supreme Court and the precedents of entering a case outside the prescribed time limit are wrong. It is wrong and we know that there are many cases. In all cases filed against the State, the SLO have always successfully taken the objection of the time frame within which a case must be filed against this Government.

Let me come to what the hon. Deputy Prime Minister has stated. He gave the impression that we were hitting at the Mediation Court and yet he knows very well that parties come to settlement and the Judge acts accordingly. It is the parties which so decide and this is a statement of fact. Another point that was made, Madam Speaker, when we say that offer was made, but we are also told that Mr Dayal rejected the offer. If he had rejected the offer, how could it have tied the hands of the Attorney General?

And the Attorney General did not give us the reasons as to why he renewed the offer. An offer to pay an *ex gratia* payment is not a recognition that the State is liable to pay damages.

(Interruptions)

As hon. Mohamed said, this is what *ex gratia* means. And worse, we were taken aback and shocked when the Rt. hon. Minister Mentor casts aspersions on the excellent work that the Commission of Inquiry had done. There was no question of political vendetta, Madam Speaker, so the arguments do not stand. As I have said, why is it that this compensation is being paid now? And I asked the question earlier, why is it that it was not done when they were in Government in 2000 to 2005. Is it because the hon. Member was not a Member of Parliament? We have every reason to say that because Mr Dayal threatened to resign that, finally, they had to come to terms with his demands. He threatened to resign and this would have provoked a by-election. This is a fact and in doing so, he negotiated a wholesale package. So don't come and say that people is indifferent, is insensitive and they don't know what is happening. So, the mover of the Motion is right to come and say that there is every reason to say that the Attorney General has failed as legal adviser to Government and it stands to reason that he should have conveyed apologies. But instead he chose to seek elsewhere.

The point that we are making, Madam Speaker, is that the mover of the Motion is right. He has every reason to move the Motion based on substantial evidence in the light of the findings of the Commission of Inquiry, irrespective of the vote which is going to be taken in the House. The people outside know the truth when we talk to those who are waiting to be compensated, whose cases have been lodged. You go and talk to them and they will tell you that in their case the law applies and they are being told when they submit outside the time limit that their cases are non-receivable.

You cannot have especial favour for one simply because the person is a Member of Parliament and you treat the mere mortals as people who cannot flex their political muscles and, therefore, we can afford to neglect them. So, that is why this Rs15 m. is not justified. I have in mind the case of a diplomat who sued Government for negligence because he fell off a balcony. He was a diplomat working in Delhi, he fell off the Balcony of the apartment that belongs to the State and we know that his claim has been reduced to a nominal fee. And this is the statement of fact. So, I have highlighted one specific case. But when you talked to the number of people, who have been made redundant deliberately, because they cannot flex the political muscle; because they do not have the political cloud; because they cannot provoke a by-election, so these people are treated simply, not with contempt, but they are treated because they are mere mortals.

My plea, Madam Speaker, we are not going to convey any apology. We stand by this motion. It is not because they have the number of the House that they have won over the people. The people have so decided and the people are with us on this motion because Government has failed and has failed abysmally to convince the nation that hon. Dayal has a case. He stands to fail, and on this issue, Government fails together with him.

Thank you very much.

Madam Speaker: Hon. Sinatambou!

(4.34 a.m.)

The Minister of Social Security, National Solidarity, and Environment and Sustainable Development (Mr E. Sinatambou): Thank you, Madam Speaker. It is nearly my wake up time, Madam Speaker, but I have not been able to get one second of sleep yet. I do apologise for being slightly tired and, in fact, I am hesitant. I am hesitant whether I should actually be confrontational or whether I should be moderate.

(Interruptions)

I will start, at least, moderately because there is one thing where I believe one of the hon. Members speaking, on this side of the House, has actually put his finger on the right sensitive point. The mover of the motion, when he actually brought his Motion of No Confidence in relation to the role of the Attorney General, allegedly with regard to the claims of hon. Jayeshwur Dayal following his removal from the Office of Commissioner of Police, now that motion relates to the claim of the former of Commissioner of Police following his

removal of office. And his removal of office follows the findings of a Tribunal set up under section 93 of the Constitution, findings of which, I believe, if I am not mistaken, have never been seen by anyone in this country. That is the first very important point.

Yet, what have we heard, on the other side of the House, throughout the evening. They have been going on and on and on, not about the findings of that Tribunal, not about the removal of office following the findings of the Tribunal. And they tell you they have got nothing personal! *Ils ont fait le procès de l'ancien Commissaire de police pour une affaire qui date de 20 ans*. A Commission of Inquiry, if I am not mistaken, in relation to which there was no prosecution. Here was a Commission of Inquiry which they have been quoting exhaustively, insultingly - *vous aviez eu froid dans le dos; c'est votre attitude qui donne froid dans le dos* - from the report of the Commission of Inquiry, Madam Speaker, in relation to which there has been no sequel in law.

Indeed, there has been a prosecution before the Intermediate Court. But do you know in what circumstances? Someone asked a Secretary of the Commission, who was *functus officio*, when the Commission had also become *functus officio*, to submit documents which, according to the terms of reference of the Commission of Inquiry, he was not allowed to actually hand over. So, in breach of the terms of reference of the Commission of Inquiry, documents were unlawfully handed over, apparently to Police officers, who then apparently investigated the matter and brought prosecutions through the Director of Public Prosecutions against the former Commissioner of Police.

So, in effect, the mover of the motion has gone completely astray by coming before this House on a Motion of No Confidence, with regard to the claim following the removal of the former Commissioner of Police subsequent to the finding of a Constitutional Tribunal. If he spent the whole of his motion just as the hon. First Member for Port Louis South and Port Louis Central, just harping on the findings of a 20-year old Commission of Inquiry on which there was no sequel whatsoever. Had there been - surely there should have been a prosecution! But there was not one against the former Commissioner of Police.

I am not here to say whether the findings were right or wrong. I am not here to say whether he was guilty or not guilty. I am here to say since the former speaker mentioned statements of fact, the facts are clear; there was no action taken in law in relation to the findings of the Commission of Inquiry.

Now, I must say one thing, I was in two minds when the mover of the motion started speaking this evening. The reason being that it was the second time that he was bringing a Motion of No Confidence. The first one that he had brought before this House was, from my standpoint, not a very good one. Indeed, in the previous Motion of No Confidence that he brought before this House, I believe that we managed to establish beyond doubt that he was out of bound, that he has simply failed to actually substantiate his Motion of No Confidence. What does the rule say? And here, I believe that the rule which applies should be Standing Order 40 Rule 5 on the conduct of a Member just as on the conduct of the Speaker as was the time then, and also on Standing Order 40 Rule 3 which is that you cannot impute motive against a Member.

So, that presupposes that on a Motion of No Confidence, the Member should actually bring about what are the improper motives which actually would have ‘motivated’ the Attorney General. You cannot just come and say: “I do not agree with him. He should have advise differently”. You must, on a Motion of No Confidence, by reason of Standing Order 40 Rules 5 and 3, establish the improper motives, and you must show, there must be evidence of such improper motives, bias, bad faith or misconduct, if any. And this must be established with what we call cogent and not unsupported evidence.

I was in two minds whether I should raise a point of order under Standing Order 40, Rules 3 and 5, but then, because righteousness is on this side of the House in relation to this matter. No one can claim that one is always right, no one. But, at least, when it comes to the particular facts regarding the payment of those Rs15 m. plus to the former Commissioner of Police, this side of the House is right. Which is why I chose then not to challenge the mover of the Motion on a point of order.

However, what is disappointing and self-revealing is what I consider to be the dishonesty of the other side of the House. Here, we have come up with a number of documents, which we have produced. We have the offer of Rs15 m. plus computed by the Accountant General. We have the offer of Rs5 m. made by the Secretary to Cabinet. We have the advice of the Solicitor General. I must quote that because this is very revealing. The Solicitor General does say, I quote -

“Consideration may be given to making an *ex gratia* lump sum payment to Mr Dayal computed on the basis of the number of years of service completed until he was removed in 1997.”

And the Attorney General has been candid enough to produce the letter of the offer of Rs5 m. plus, which stops the limitation period from running against the former Commissioner of Police. What do they do? They keep ignoring the four letters. And I hope that the media will take access to those four documents, because they establish irrefutably that at all times the offer to pay was made by the former Government. In fact, I must say one thing by...

(Interruptions)

Sorry?

(Interruptions)

That's it. That is a sound point.

(Interruptions)

Madam Speaker: Order!

Mr Sinatambou: In fact, that has been revolving in my mind when both former Members of the Cabinet of the former Government...

(Interruptions)

...when the two former Members of the previous Government said that this did not go through Cabinet. Do you realise that the former Prime Minister was Minister for Home Affairs, for Defence, responsible for the Police? So, one wonders what was going on. So, clearly they would not have known, but he must have known.

(Interruptions)

What I am trying to say is that they may not have known, but for God sake, now that you know, stop claiming ignorance, acknowledge the truth! How can it be said that there is wrong advice dispensed by the Attorney General? The letters are here, establishing that the payment was offered by their Government at the time. They actually saw the computation. We have given it to them! They still insist. That is bad faith, and that is why I would like to add, I heard the other side saying 'well, we don't have anything personal. He is a good friend'. You know, let me tell you, they bring motions of no confidence against their friends in this House. What I believe, Madam Speaker, is that, in fact, they will leave no stone unturned to vilify anyone, even if one is in good faith. I have seen it myself. They will leave

no stone unturned in the Opposition, if they can put dirt on anyone here. The Attorney General has done no wrong, but they have to find something.

Let me say something else, which is very disturbing, and here it is the context in which all this is happening. To me, the context is very revealing. The context is a very good Budget brought by the hon. Prime Minister and Minister of Finance. To tell you a small anecdote, I was favoured with a copy, with a small pamphlet of 10 Budget measures. I found it quite nice, but I was not happy. So, I made one for 20 measures, because there is not just enough in 10 measures. So, I made one myself for 20 measures because it is so good to share with people, and that is what is happening. They got nothing to say. They are lost.

(Interruptions)

Exactly! That is what I am going to do. I am going to put the context in which this alleged ill action of the hon. Attorney General is actually becoming before this House. Otherwise, what they can say? This country, for the first time in history, has Rs17.2 billion for education. Unheard of! What happens? Then, last week, you had a walkout! They have to try and create something, when there is nothing. Well, I should like to remind them of Shakespeare's King Lear: nothing comes out of nothing. So, do not expect something to come out of your nothing. Nothing will come out of it. King Lear said it to Cordelia.

(Interruptions)

So, please it will not work. The country will see, and the country is convinced. It is not proper. I must say the previous speaker who, I must acknowledge, is a good friend of mine - I must acknowledge...

(Interruptions)

We are friends, but we are not of the same feather. So, we don't flock together. So, I will not do what they do. But I don't think it is fair nor proper for him to come up and say that this side of the House has failed abysmally. It is that side of the House which has failed abysmally, because they have chosen to ignore those four self-revealing letters, self-explanatory letters, which establish beyond doubt that there was nothing sinister, nothing improper in what the hon. Attorney General did.

Now, maybe there is something I should add. I mean that is something else which bothers me on the other side of the House. How they are so good, really they are the best,

they are excellent at gratuitous accusations. Excellent, Madam Speaker. Let me tell you what they said which really shows yes, he was guilty of conflict of interest, that he did not reveal. How do they know what happens in the Cabinet of Ministers? And we have been telling them! But they again abysmally; the best of their speakers there keep making gratuitous accusations, and that really should stop. I believe that this country deserves a better Opposition. Please, get better standards, gentlemen and ladies over there.

I should like to dwell on a particular aspect of things. I just explained to those Members of the House who may not have grasped it yet, that it is not proper on a motion, where you are speaking of the resignation of someone following the findings of a tribunal to then go and keep harping on what a Commission of Inquiry said.

Now, what is however very important to know is that, I explained to the House, through you, Madam Speaker, that then, facts which actually pertained to the Commission of Inquiry were unlawfully, evidence was unlawfully obtained and this became the subject matter of prosecution against the former Commissioner of Police.

What one should understand is that, the findings of the Intermediate Court is very, very harsh because the Court then finds, I quote -

“The Court then said that the procedure which was resorted to was found by the Court to be most irregular...”

I mean, this is a very important matter. Then –

“The Court also finds that the conduct of the Police was most improper and irregular.”

Can you believe it! You can see why when the former Commissioner of Police then initiates action, there is some basis in law that a Court of Law has held. I give you another quotation -

“The conduct of those involved in the Criminal Investigations is deplorable and should be discouraged.”

Another quotation -

“The Court found that what was done was tantamount to manipulative practice.”

And finally, the expression that comes from the Deputy Prime Minister, Minister of Energy and Public Utilities is a final nail in the coffin: “the conduct of the investigating authority smacks of bad faith and serious fault on its part.”

So, here is the background: you have a Commission of Inquiry, facts are taken unlawfully, evidence is unlawfully obtained and prosecution ensues. A Court of Law finds this to be deplorable, it smacks of bad faith, to be tainted with irregularity, and they tell you it is a technicality. A technicality! When the Secretary General of the MMM is acquitted, then it is political vendetta! Look at the surrounding circumstances, Madam Speaker, it is quite strange: a Commission of Inquiry is set up, a Tribunal is set up. Normally, you do the one; after the findings of the one, you do the other. Here, they do the one and the other. At the same time, they come with the Constitutional Amendment Bill No. 13 of 1999.

(Interruptions)

Sorry! This one I don't know, I confess my ignorance. But here, I am saying, normally you would have a Commission of Inquiry followed by a Constitutional Tribunal, and then, if there is any lacuna, you have an amendment to the law. This time, no, you have all three. All three together followed by an unlawful prosecution which is thrown out by the Courts. This is the real backdrop to this matter. And, therefore, what happens is that it is perfectly in order for the former Commissioner of Police to believe that he has been wrong. I am not saying whether he was wrong, whether he entered the case rightly or wrongly, but look at the backdrop. I think it is perfectly normal for any person, including the former Commissioner of Police to enter a case, which reminds me of something I should say in this House. Because, very often, I hear that a Minister's nephew has got a place, therefore that's wrong. I would like to quote - I heard one of the Members of the Opposition say about his child that she has no more right and no lesser right than anyone else, but this is on this side of the House, you all have lesser rights than any other Mauritian Citizen!

I hope that this country should know that we also have rights on this side of the House, so does the former Commissioner of Police, because someone else can sue, why can't he? If Government can offer others, why was he not offered? And in this particular case, what is striking is that it is the former Government which made the offer and after having made the offer, could we withdraw it? Anyway, let's not bother about them.

The other point I would like to make is – maybe, I should not speak too much.

(Interruptions)

Maybe, I should end on a Latin maxim which says, *errare o humanum est*. To err is human, but it also says, *perseverare diabolicum paz ares*, that is, to continue erring is evil. So, please, on the other side of the House, I think you got it wrong with the last Motion of No-Confidence against Madam Speaker. I think you again got it wrong against the hon. Attorney General. If I may say, I have not been rude to the mover of the motion. I remember that last time I said that if I had to give a title - he had been so long, about two hours, and I think it was like looking at a bad film - it would have been "*Arret to cinema!*" This time it was better, it was about 1hr50mins, but still a dull film and I gather you have liked the word that I used some other time in Parliament, I called it '*enfumage*'.

Madam Speaker, I will still end by saying that this time the title of the film would have been "*Les enfumages de Shakeel Mohamed*".

Thank you very much, Madam Speaker.

Madam Speaker: Hon. Shakeel Mohamed!

Mr Mohamed: Madam Speaker, you would recall that I started out by saying that this debate was a must, and I have listened to every hon. Member intervening on this issue with a lot of interest.

I have come to understand a few of the issues, as viewed by the hon. Members on the other side, and I would like to thank all Members. Even though we are not on the same page, we are not in agreement, I would like to thank all Members for having participated.

We may differ in our views, but I believe that it was important for us to have this debate. Why was it so important, it is precisely one has to be able to understand what is indeed the role, as I started out by explaining that of the Attorney General, how does he reconcile his position as a party politician, party man as opposed to that of an independent Adviser.

To come back to the documents that were put in by the hon. Attorney General, yes, I have seen the letter referred to, dated 23 October 2013, which is indeed a computation made. In this particular letter from the Secretary to Cabinet, signed for the Secretary to Cabinet, sent to the Commissioner of Police, the Secretary to Cabinet informed the Commissioner of Police that an offer can be made. *Ex gratia* is the title. I need not explain to lawyers and also non-

lawyers what *ex gratia* means. *Ex gratia* means it is without any admission of liability whatsoever. I also read the letter of then Commissioner of Police addressed to the former Commissioner of Police - as though a little nice club between ex-Commissioners of Police - that this is an *ex gratia* payment of Rs5,723,769.68 which is being made. *Ex gratia*, without any admission of liability!

I am also reading here the computation made by the Attorney General. Unfortunately, we were not made privy of the letter of the Solicitor-General. I believe this is the document that the hon. Attorney General has decided not to table. Unfortunate! Because I agree with hon. Bérenger that there is the need for us to look at all the elements, but what I have noted is the following: I have heard nothing on the part of the hon. Attorney General in his files that he has gone through about the role of his office or the Attorney General at the time in this whole issue about advising to go forward for an agreement with the former Commissioner of Police. Had the former Attorney General agreed to it, had there been anything in the file where the former Attorney General of the day had approved, had advised Government to do, I am sure and certain that the actual Attorney General would have stated it in his address which he did not.

It is, therefore, fair for me to say that at no time did the former Attorney General at all approved of any such potential agreement neither did he advise Government to sign such an agreement. I have also not heard anything with regard to Cabinet. As we have said and we say it again, at no time did Cabinet approve such a thing. But what is interesting here is that the offer that was made was of Rs5 m. *ex gratia*. But what the actual Attorney General does not say is how is it that an offer that was made – two issues, an offer that was made for Rs5 m. or so all of a sudden, in order, to settle the matter, it is multiplied by three. It is multiplied by three and this is what his justification is. He justifies it by saying this was what was calculated in 2013. But the issue is the following: I have heard hon. Sinatambou state in his speech that the issue of the offer that was made, they had no other choice. I have heard hon. Gayan also say the offer was made, there was no other choice. I have heard the hon. Attorney General saying that his hands were tied, he had no choice. I heard hon. Gayan goes as far as to say that it is the fault of the former Government, the Labour Government, that is why hon. Dayal finally is obtaining Rs15 m.

What they are saying is that, it is not them. They are not to blame for hon. Dayal obtaining Rs15 m. What they are saying, in fact, it is not the actual hon. Attorney General, he

has got nothing to do; he had no choice, but it is the former Government that is to be blamed for him obtaining Rs15 m. or we should be thanked in other words by hon. Raj Dayal for obtaining Rs15 m.

Now, if this is one way of refusing to take responsibility, I have not seen a better one. Today, what this Government is telling us is: ‘Oh no, we had no other choice.’ Hon. Gayan put it so clearly. It is the former Government’s fault and that is why, they had no other choice than to give their friend, their party member Rs15 m. I fail to understand when it suits them this time, once again, they throw the responsibility on the shoulders of the former Government and worse, to see the mechanism that they love to adopt. It is what? It is not us, there was manipulation somewhere. So, what we are made to understand somehow, once again, is that the former Government, the Prime Minister of the day was so good as to be able to influence wrongly and manipulate three Judges of the Tribunal: Rajsomer Lallah QC, former Chief Justice, the actual Chief Justice, Mr Matadeen and Judge Lam Shang Leen.

So, what we were hearing here is that the former Prime Minister somehow, somewhere was so good as to manipulate and influence the end result of that Tribunal. What I am to understand here is once again, it is not them, it has nothing to do with them and we have here to blame, once again, the former Prime Minister. What I also understand when I read something else which hon. Rutnah seems to have forgotten already - I have not forgotten about him. It is difficult - is when he referred to the judgment of Mrs Beesoondoyal, Magistrate then and Mr Kam Sing, Magistrate of the Intermediate Court in 2007. He forgets to read a very important paragraph, he was so happy blaming the former Prime Minister. Why? Because it is easy, it has become a tradition. Let us blame the former Prime Minister. I read the judgment –

“On ground (ix) we would abstain from making any comment regarding the alleged mindset of the Minister responsible for the Police who brought before Parliament a Bill amending the Constitution so that the Office of the Commissioner of Police becomes vacant. No ulterior motive can be attached to the decision of the Prime Minister to introduce laws for the good government of the country especially when provision is made to prevent the country being left without a Commissioner of Police and the holder of the Office had been criticised in a report following a Commission of Inquiry presided by a Judge of the Supreme Court. Even if the Prime Minister, who is

also responsible for the Police, did not want accused no. 1 to remain in office by introducing the said Bill, we still find that there is no evidence that the Prime Minister interfered in any manner whatsoever in the Police enquiry. The Prime Minister proceeded by legal means (...).”

This is the judgment of the Intermediate Court.

It is so easy here, as Politicians, for us to hear the condescending messages from hon. Gayan or the condescending approach from hon. Sinatambou telling us that I was wrong. I am always wrong and they are always right. They say they will not do that, but they do exactly that. The condescending attitude as though telling us that they are in a fatherly figure giving advice, but at the same time pretending that they are holier than thou attitude is amazing. But what they failed to say is how come the Magistrates of the Intermediate Court found nothing wrong, there is no evidence of wrongful interference in the Police inquiry by the former Prime Minister. This is not me saying it, this is the judgment of a Court saying it to Magistrates who have no interest of their own to protect and who are totally *apolitique*.

(Interruptions)

Madam Speaker: Hon Rutnah!

Mr Mohamed: At no time, therefore, was the question put: was hon. Dayal ever prosecuted for asking any money from people? That is what I wanted to understand and that is the background that I was referring to for the hon. Attorney General, the background of this case. Hon. Gayan says it was not the responsibility of the hon. Attorney General to refer to what happened at the Commission of Inquiry, that background was not the responsibility of the hon. Attorney General, it has nothing to do with him. Fair enough!

I do not agree with hon. Gayan, but what is amazing is the following: how is it, therefore, that the background where you have hon. Gayan trying to explain to us and the hon. Minister Mentor also said the value of what happened before the Commission of Inquiry and there was no cross examination, hon. Rutnah also, at some stage, said that. But, let me here, once again, refer to page 186, it says here –

“The relevant notes of evidence of Messrs Clément and Thierry Man Hin and of Mr Paul Ah Kiow were communicated to the CP and the QM and those witnesses were made available for questioning at a subsequent sitting.”

So, there was the opportunity to question them –

“The Commission had also sent the notes of evidence to Mr Leung Shing, Q.C., CP’s Counsel, on Tuesday, 19 January 1999, informing him that the witnesses would be available on Friday 22 January 1999 for questioning. The Commission met with a rebuff from Counsel who reportedly refused to take the notes of evidence.

“We again asked the CP whether he wanted to put questions to the witnesses who were present and available but he declined....”

So, he declined from questioning and that is with regard to Man Hin; but what about Mr Leal? Mr Leal was then submitted to cross-examination by Mr Leung Shing. So, he had an opportunity to cross-examine, so he had an opportunity to find out whether this person was credible or not. And what is very clear is that when on the opposite side hon. Members say that there was no opportunity to test the evidence, there was no opportunity given to cross-examine, that is, far from the truth. There was, indeed, opportunity and there was cross-examination of Mr Leal, but what I also found here and this is where I am not in agreement with the hon. Attorney General.

We will go into a legal argument and legal gymnastics with regard to the limitation period of two years. Hon. Rutnah refers to all exceptions with regard to actions entered under the Civil Code, the reference he makes is not relevant to limitations that are imposed by statute specifically designed, not relevant at all, but instead of getting into that legal gymnastic, there are two issues I would like to refer to –

1. did Counsel and Attorney of Mr Dayal served a notice *mise en demeure* in line with the Public Officers’ Protection Act which is also mandatory, forget about the statute of limitations for a minute.

This is what also should have been taken into account by the hon. Attorney General. No *mise en demeure* was ever served and I am not the one who raises this as a defence, this State Attorney in the defence raised that, not only the issue of two years statute of limitations, but also that no *mise en demeure* was served that renders this whole thing a nullity. And these are defences that were raised, that were good defences. We cannot say that they were weak defences but, in actual fact, the issue, Madam Speaker, was not that the defence was good or not. It is not whether a good defence was available or not, the issue was simply.

(Interruptions)

Madam Speaker, can I be allowed...

Madam Speaker: Please, do not let yourself to be carried away by them.

Mr Mohamed: The issue here is that the hon. Attorney General clearly states that he appeared for his client, Mr Dayal, in a matter which he won. I am not talking about him appearing as Counsel for the State here, I will get to that in a minute. He agrees having appeared for the client Dayal and he won that case. At the same time, he also appeared in a matter together with late Judge Bhaukaurally before our Tribunal. In that case, he sustains the charge and says that he fights for the State, that he is totally right by pushing forward the agenda of the State that he should be removed from his position and the recommendations should be that he loses his position as Commissioner of Police.

And how is it, therefore, that today the same Attorney General is telling us that in actual fact, with the help of all his colleagues, that there is some manipulation somehow and that the Tribunal has done something that was wrong and the former Prime Minister somewhere had an influence on the work and the findings of that Tribunal. We cannot blow hot and cold continuously like that and expect them to have as though the monopoly of truth. They have been blowing hot and cold. Madam Speaker, there is one thing which I understand today. There is one thing which I totally understand, Madam Speaker, it is the following –

It is that this motion that was brought forward is an opportunity for Members to understand what is the truth because outside people will not get lost in the legal gymnastics. People only know one thing, there was a Commission of Inquiry and that Commission of Inquiry has established a lot of things against the former Commissioner of Police. That Commission of Inquiry has evidence that I have read where people have said that the former Commissioner of Police has asked them money.

(Interruptions)

At least, *il est constant, il continue*. Now, I have only one thing, people to say and people outside have heard that there is money that was sought for in return for the choice of specific vehicles and motorcycles and other equipment, be it from Mr Leal and from Mr Man Hin. Clearly, those two issues are out there in the minds of the members of the public. They are asking one thing, people outside are wondering, forget about legal gymnastics, how come No.1, the hon. Attorney General did not use this as a background before he took his decision and how is it that he could not, at least, convince Government that he should have allowed a Court of Law to decide what was right and what was wrong, and not take it upon himself to advise Government knowing that he has, at one point or the other, been the Legal Counsel of Mr Dayal.

This is what the people outside want to know. Because he, according to hon. Gayan, should not even be concerned and clearly should not even base himself on the findings of the Commission of Inquiry.

So, people out there are still waiting for an answer. They want to know how come someone who has clearly been found, through testimony, that man dehors - Madame la présidente, la population sait aujourd'hui que M. Eric Leal et M. Man Hin ont témoigné devant M. Bernard Sik Yuen, juge à l'époque pour la Commission d'enquête. Ils ont témoigné que l'ancien Commissaire de police leur ont demandé de l'argent, ce qui était clairement a bribe. C'est de la corruption. This is what they said. Ce qu'ils veulent savoir c'est le comment et le pourquoi, the fact that the actual Attorney General a ignoré cela. Comment alors il a ignoré cela tout en étant clairement l'avocat de M. Dayal dans une affaire tout récemment ? Comment se fait-il qu'il a oublié ces faits quand il fallait conseiller le gouvernement ? Le fait est que M. Dayal a été blâmé. Mais aujourd'hui on nous dit que ce n'est pas important. On nous dit que ce qui s'est passé devant le Tribunal qui a été institué, le Tribunal constitutionnel, n'est pas important. Ce qui est important c'est que le gouvernement a toujours raison.

(Interruptions)

Madam Speaker: Hon. Rutnah ! Please! It is early morning!

(Interruptions)

Mr Mohamed : And then, they go on to say that what I am talking about is ethical leadership. They turn it around and say: "Well, it is not the Labour Government that talks about ethical leadership". So, this has always been the way that this Government defends itself. Instead of standing up to the occasion and saying: "Okay, if there is an issue, let's deal with it". No! The only difference between the time when the Rt. hon. Minister Mentor was President of the Republic, and he received a letter from hon. Dayal in 2011, that was fine to just brush him aside. And the reason why that was fine, I do not know! But the fact is, at the time, when his letter and his plea to the President of the Republic in 2011, hon. Dayal was not a member of the MSM. At that time, he was not a Member of Parliament. At that time, he was not holding onto a seat in Constituency No. 9. I am not saying this was a determining factor. Not at all! Even now! But what I am saying is a fact! That is the difference! Whereas now, when the Rt. hon. Minister Mentor stands up and says that what we are saying, giving as a motion is wrong again, and he is always right. The difference is that hon. Dayal is

now a member of the MSM. Now, he is a Member of Parliament. Now, his position is such that he wheels influence because his position has value and they cannot afford any loss. That is the difference! And this is where I ask the hon. Attorney General, as has been said, the number of votes is not an issue.

At the end of the day, posterity will remember that what is written in this document of this Commission of Inquiry and what the witnesses deponed to, this will never be forgotten. What will also not be forgotten is that the account of Mr Dayal has been replenished by public funds. That will not be forgotten. Hansard will not forget that as well, but what people will also not forget is that, for power, and for political supremacy, Members have decided to make fun of a very important issue. Fair enough! Let's make fun about it! And if hon. Sinatambou believes that he is scoring political points and he is making people outside happy, then he is totally disconnected with the reality!

(Interruptions)

Reality is that the great majority of the population do not accept that hon. Dayal, after the Commission of Inquiry, we cast it aside, and he pockets money that belongs to the State, and that the Attorney General is his former lawyer.

(Interruptions)

That is the truth!

(Interruptions)

So, in conclusion, Madam Speaker, after having listened to the condescending remarks of two hon. Members there, I have come to the conclusion that whenever you listen to anyone who has got nothing, no knowledge with regard to what one said, and one who is very interested to go to sleep like hon. Dr. Sorefan, the best thing one should do is not to listen to him, and I should not commit the same mistake of listening to him....

(Interruptions)

Because he is trying to interrupt me more and more and more and more!

(Interruptions)

I did not interrupt anyone for once, but then, he does not understand. I guess if he is sleepy, he can just walk out...

(Interruptions)

But then, again, this is how important this whole issue is...

(Interruptions)

Now he got me going again! Let's go!

(Interruptions)

Now, this is the attitude of Government. This is the attitude of Government, represented by hon. Dr. Sorefan who does not care about the Rs15 m. given to the former Commissioner of Police because he is only concerned about his sleep because he is tired. He does not care ...

(Interruptions)

...because the money does not belong to him!

(Interruptions)

That is his problem!

(Interruptions)

The attitude of this Government symbolised by this hon. Member...

(Interruptions)

Madam Speaker, what is the point of coming to this House and trying to debate, when you try to debate, what is thrown in your face is just condescending comments and insults? So, that is the whole point: where has democracy gone?

(Interruptions)

Where is democracy gone?

(Interruptions)

I am sorry! And when we are going to turn around and listen to the lessons of hon. Gayan, trying just now in his speech to make reference to Rujubali, and he talks about not going down to the gutter!

(Interruptions)

He talks about not going down to the gutter!

(Interruptions)

I am sorry! I won't take lessons from hon. Gayan! He has got other issues to take care of. Go and take care of those issues!

(Interruptions)

Madam Speaker: Order, please!

Mr Mohamed: It is cold. It is winter time. Take care!

Madam Speaker, I brought about a very important issue and it was just not simply to be heard for the fun of being heard.

(Interruptions)

It is simply because *sur le principe*: should someone be paid money that belongs to the public, after all those facts exist against him? But then, in conclusion, I would like to put one question - I have never managed to find an answer to that - why is it, until today, no case was instituted against Mr Dayal, no Police enquiry pertaining to him asking for bribes? How come? Just think about it!

(Interruptions)

No case ever instituted against Raj Dayal! No enquiry whatsoever! And then, look at the reaction of the Government!

(Interruptions)

But you were there, what did you do? You were there, what did you do?

(Interruptions)

I was the Commissioner of Police! I was the Prime Minister! I was the Minister of Interior! I was everything! For God's sake, grow up! What my question is, why is it - I am thinking, not here blaming 2000 to 2005....

(Interruptions)

I don't know! Some people are obsessed with the name 'Ramgoolam'. I am not even referring to him here!

(Interruptions)

My issue is, how come *entre 2000 et 2005, entre 2005 et 2010, entre 2010 et 2014*, there has been no investigation, no case referred to the DPP most probably, and no case, not even a provisional charge on what is here clear evidence of him having asked for bribes? This means that the rot goes further. What this Attorney General is doing, he is using this to have paid him Rs15 m., and that is the advice that he gave. That is, in my humble view, wrong in law. It should have allowed the Court to decide the matter, and not him settling the matter. Going before Mediation, it was on the request of the State. Coming up with a settlement, it was placing the judge before an agreement. There was no choice but to accept it and make a judgement of the Court.

So, please, let's not blame another judge of the Mediation Court again! I am of the view that the Attorney General has been wrong with regard to this matter, and has been clearly influenced by his political appurtenance, and has not acted independently as an Attorney General should act.

Thank you very much.

The motion of the hon. First Member for Port Louis Maritime and Port Louis East (Mr S. Mohamed) was, on question put, defeated.

ADJOURNMENT

The Prime Minister: Madam Speaker, I beg to move that this Assembly do now adjourn to Tuesday 31 July 2018 at 11.30 a.m.

Mr Roopun rose and seconded.

Question put and agreed to.

Madam Speaker: The House stands adjourned.

At 5.35 a.m., the Assembly was, on its rising, adjourned to Tuesday 31 July 2018 at 11.30 a.m.

WRITTEN ANSWERS TO QUESTIONS

SOCIÉTÉ MOHAMED UMEEIR IBNE SHOWKUT – INDUSTRIAL SITE LEASE

(No. B/709) Mr R. Uteem (First Member for Port Louis South & Port Louis Central) asked the Minister of Housing and Lands whether, in regard to the industrial site lease granted to Société Mohamed Umeeir Ibne Showkut, he will state the date on which his Ministry received a request from the said Société for the transfer of the beneficial ownership of the industrial site lease, indicating the date on which his Ministry approved same and table copy of the new lease agreement.

Reply: Since July 2007, Société Mohamed Umeeir Ibne Showkut was one of the shareholders of Compagnie de Culture de Tabac Limitée which held a Campement Site lease over a plot of State land of an extent of 4896.21 m².

On 02 February 2011, approval was obtained to excise part of the land leased to Compagnie de Culture de Tabac Limitée and to draw a 60-year Industrial lease over the excised plot of land in favour of Société Mohamed Umeeir Ibne Showkut for the purpose of running a Bungalow Complex.

On 10 February 2011, approval was conveyed to draw the 60-year Industrial lease in favour of Société Mohamed Umeeir Ibne Showkut. As from July 2011, Société Mohamed Umeeir Ibne Showkut started paying the annual rental at industrial rate and implemented the project following obtention of a tourism enterprise licence.

It was only in the year 2015 that the lease agreement in favour of Société Mohamed Umeeir Ibne Showkut for an extent of 1931 m² was finalised. On 26 August 2015, the lease was signed for a term of 60 years as from 22 May 2015 to expire on 21 May 2075. In addition to the running of a bungalow complex, the lessee was allowed to use part of the building as a dental clinic.

On 06 November 2015, the lease agreement was amended to also allow for the running of a restaurant. On 17 October 2016, the lessee informed the Ministry of Housing and Lands of its intention to dispose of 100 % shares of the Société in accordance with Article 18 of the lease agreement.

By way of a notarial deed dated 06 February 2017, Société Mohamed Umeeir Ibne Showkut transferred all its shares to Mrs Miao Wang, Mr Jianzhong Zhu, Mr Yu Sun and Mr Liu Senhua.

Article 18 of the Agreement provides, *inter alia*, that in case the project is fully operational for at least one year, the lessee can change its shareholding structure and authorisation of the Ministry is not required in such circumstance. However, the lessee has to inform the lessor 15 days before such change is effected.

As already stated –

- i. on 17 October 2016, the lessee informed the Ministry of its intention to transfer the shares;
- ii. on 06 February 2017, the transfer of shares was effected through a Notarial Deed;
- iii. on 06 November 2015, the amendment to the lease was effected and on 05 November 2016, the project was already operational and the one-year operational period was completed.

Thus in this present case, the authorisation of the Ministry for the transfer of the shares was not required as the lessee had complied with Article 18 of the Lease Agreement.

The question of tabling a copy of the new lease agreement does not arise as there is no new Lease Agreement. The lessee is still ‘Société Mohamad Umeeir Ibne Showkut’.

A copy of the existing lease agreement is available at the Registrar General’s Department.

RIVIERE DU POSTE - PONT ROUGE - UPGRADING

(No. B/710) Mr B. Jahangeer (Third Member for Rivière des Anguilles & Souillac) asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the footbridge commonly known as Pont Rouge at Rivière du Poste, he will state where matters stand as to the proposed upgrading thereof.

(Withdrawn)

CEB – GAS-INSULATED-SUBSTATION PROJECT - IMPLEMENTATION

(No. B/711) Mr B. Jahangeer (Third Member for Rivière des Anguilles & Souillac) asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the proposed implementation of the Design, Supply, Installation and

Commissioning of 66 kV Gas Insulated-Substation Project, he will, for the benefit of the House, obtain from the Central Electricity Board, information as to where matters stand.

(Withdrawn)

TRAFFIC CONGESTIONS – PEAK HOURS

(No. B/712) Mr B. Jahangeer (Third Member for Rivière des Anguilles & Souillac) asked the Minister of Public Infrastructure and Land Transport whether, in regard to the traffic flowing from the North to the South of the island through Port Louis, he will state the measures being taken to ease traffic congestions occurring thereat during peak hours.

(Withdrawn)

PAILLES WATER TREATMENT PLANT – REMEDIAL WORKS

(No. B/713) Mr B. Jahangeer (Third Member for Rivière des Anguilles & Souillac) asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the remedial works entrusted to Messrs Sotravic in relation to the cracks on the walls of the Pailles Water Treatment Plant, he will, for the benefit of the House, obtain from the Central Water Authority, information as to if same have been completed.

(Withdrawn)

SAFE CITY PROJECT – IVS & ITS CAMERAS

(No. B/714) Mr A. Ameer Meea (Second 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 Safe City Project, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to –

- (a) the regions to be covered;
- (b) where will the live viewing of the cameras footage be held, and
- (c) if provision for the upgrading of the existing street lighting at the designated places will be included therein with a view to obtaining clear images at night.

Reply: I am informed by the Commissioner of Police that the Safe City Project is an integrated and advanced technological system for ensuring safety and security of the public in general in Mauritius.

It comprises, amongst others, street surveillance cameras aimed at preventing and detecting crimes as well as drug proliferation. It will also assist the Police in ensuring a more effective road traffic safety management. The Safe City Project has made provision for

the installation of 4,300 video surveillance cameras, 4,000 of which will be Intelligent Video Surveillance (IVS) cameras and the remaining 300 will be Intelligent Traffic Surveillance (ITS) cameras.

As regards part (a) of the question, I am informed that the 4,000 IVS cameras will be installed in 2,000 strategic locations across the island, mainly at major public areas, along motorways and main roads, pedestrian walkways and at traffic centers. The 300 ITS cameras will be installed at 75 identified sites along motorways and other main roads. Warning signs indicating the presence of these cameras will be placed at the respective locations for the information of the general public.

With regard to part (b) of the question, I am informed that only authorised Police Officers will be allowed to view the camera footages at the Convergent Command and Control Centre to be located at Ebene, the Sub-Command Centres in the seven Police Divisional Headquarters as well as at the Traffic Branch, Port Louis and at all Police Stations around the island.

Concerning part (c) of the question, I am further informed by the Commissioner of Police that most of the sites for the IVS and ITS cameras are strategically located. These places are already well lit by night. Moreover, these cameras have inherent infrared capabilities which enable recognition in low light conditions or by night. Should the need arise, local authorities will be approached to upgrade their existing street lighting at those specific places for getting clearer images by night.

ROUTE DES PAMPLEMOUSSES, SSR, SAINT FRANÇOIS XAVIER & MAGON STREETS – TRAFFIC CONGESTION

(No. B/715) Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to Route des Pamplemousses, SSR Street, Saint François Xavier Street and Magon Streets, in Port Louis, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to if additional measures will be taken to address the issue of traffic congestions occurring thereat due to disorderly parking of vehicles, including the –

- (a) posting of Police Officers thereat, and
- (b) carrying out of new surveys with a view to placing additional road traffic signs/road markings.

Reply: I am informed by the Commissioner of Police that Route des Pamplemousses, part of SSR Street, Saint Francois Xavier Street and Magon Street in Port Louis fall under the control of Plaine Verte and Fanfaron Police Stations of the Metropolitan (North) Division.

Moreover, another part of SSR Street, from junction Corderie Street up to the junction in front of the Town Hall Port Louis is under the control of Pope Hennessy Police Station of the Metropolitan (South) Division.

In regard to part (a) of the question, I wish to inform the House that road infrastructures in these areas have remained unchanged, whereas the number of business activities such as food courts, offices and other related businesses has increased substantially during the last decades.

Nevertheless, the Police is closely monitoring the situation and maintaining strict vigilance along the roads in question and it will continue to take appropriate actions against undisciplined drivers/riders and other offenders. In this respect, the following measures are being taken by the Police to address the problem of traffic congestion in those areas -

- (a) Over and above the presence of Police Officers from Plaine Verte, Fanfaron and Pope Hennessy Police Stations, some 50 additional Police Officers are being deployed on a daily basis from other units of the Force, such as Traffic Unit (North) and Traffic Unit (South) who are supported by Divisional Traffic Police (DTP), ERS and Bike patrols. They are involved, among others, in fixed point duties at main junctions and other specific places, foot and mobile patrols, assisting pedestrians at crossing zones, checking on illegal hawkers and also in enforcing the road traffic regulations and the prevention of other crimes, and
- (b) Spot road traffic diversions are carried out whenever the traffic congestions along these roads impact on the whole traffic flow in Port Louis.

With regard to part (b) of the question, I am informed by the Ministry of Public Infrastructure and Land Transport that a traffic scheme consisting of additional road markings and traffic signs is currently being worked out to alleviate the traffic congestion problem along that stretch of the Saint Francois Xavier Street and the Magon Street.

**BELLE MARE WATERPARK & LEISURE VILLAGE - RENOVATION -
CONTRACT**

(No. B/718) Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes) asked the Minister of Agro-Industry and Food Security whether, in regard to the Belle Mare

Waterpark and Leisure Village, he will, for the benefit of the House, obtain from SIT Leisure Limited, information as to when bids for the renovation thereof were launched, indicating the contract value thereof.

Reply: At the very outset, I wish to draw the attention of the House to the effect that the Sugar Investment Leisure Limited does not exist.

The Belle Mare Waterpark and Leisure Village is managed by SIT Leisure Ltd.

The SIT Leisure Ltd in first instance launched an Expression of Interest, both locally and internationally, for Consultancy Services and Strategic Partnership for the renovation of the Belle Mare Waterpark and Leisure Village in April 2016.

Out of the 13 firms which responded, 4 companies were shortlisted and they were invited to submit a Request for Proposal for Consultancy Services.

Out of these 4 companies only 2 responded. However, as the prices quoted were considered too excessive, the SIT Leisure Board decided not to pursue this exercise further.

In November 2016, the SIT Leisure Ltd launched an Expression of Interest for a Joint Venture with a Strategic Partner for the refurbishment and renovation of the Belle Mare Waterpark and Leisure Village.

Three international companies responded thereto but their proposals were not acceptable to the Board.

In view of the fact that the renovation and refurbishment works had to be imperatively carried out, SIT Leisure Ltd contacted Whitewater West Industry Ltd which was, in 2000, responsible for the design, construction and installation of equipment for the existing slides and attraction of the Waterpark.

Consequently, Whitewater West Industry Ltd conducted an onsite visit in October 2017 to take stock of the scope of works.

After several discussions between SIT and Whitewater West Industry as regards both the costs and scope of the consultancy services and works, the services of Whitewater West Industry Ltd were retained for a lump sum fee of USD 3,918,000, exclusive of VAT.

The contract includes the -

- (a) supply of consultancy services for the Waterpark and Leisure Village Restoration Project;
- (b) supply and installation of new equipment, inclusive of cost of material and labour;
- (c) refurbishment of existing slides inclusive of cost of material and labour;

- (d) installation, supervision and recertification of all slides, including testing, recommissioning and adjustments, and
- (e) training of the personnel of the Waterpark and Leisure Village.

I am also informed that in the meantime, several ancillary refurbishment works are being carried out.

FOSTER CARE PROGRAMME – IMPLEMENTATION

(No. B/720) Mrs A. Perraud (First Member for Port Louis North & Montagne Longue) asked the Minister of Gender Equality, Child Development and Family Welfare whether, in regard to the Foster Care Programme, she will state the measures being implemented thereunder.

(Withdrawn)

SCHOOLS – BULLYING CASES

(No. B/721) Mrs A. Perraud (First Member for Port Louis North & Montagne Longue) asked the Minister of Education and Human Resources, Tertiary Education and Scientific Research whether, in regard to bullying in the primary and secondary schools, she will state the number of reported cases thereof since July 2017 to date.

(Withdrawn)

DRUG-RELATED OFFENCES - MINORS

(No. B/722) Ms M. Sewocksingh (Third Member for Curepipe & Midlands) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to drug-related offences, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to the number of minors who have been charged in connection therewith since November 2016 to date, indicating the outcome of the cases thereof.

(Withdrawn)

PUBLIC SECTOR – POSTS – FILLING

(No. B/723) Ms M. Sewocksingh (Third Member for Curepipe & Midlands) asked the Minister of Labour, Industrial Relations, Employment and Training – Whether, in regard to the public sector, he will state –

- (a) since 2016 to date, the number of (i) posts created sector-wise, indicating the number thereof filled on the permanent establishment and on contract, respectively, indicating the number of incumbents thereof who were subsequently offered permanent posting, and
- (b) expected number of posts to be created by end 2019, indicating the number thereof that will be filled on the permanent establishment and on contract, respectively.

(Withdrawn)

DRUG OFFENDERS – SPECIAL PRISON

(No. B/729) Mr V. Baloomoody (Third Member for GRNW & Port Louis West) asked the Attorney General, Minister of Justice, Human Rights and Institutional Reforms whether, in regard to drug-related offences, he will state if consideration will be given for the setting up of a separate –

- (a) Court for the trial of suspects arrested in connection therewith, and
- (b) prison for the imprisonment of persons convicted therefor, as recommended in the latest report of the Human Rights Commission.

Reply: In its 2018 report, at paragraph 5, the Human Rights Commission wrote the following –

‘ 5. Drugs

Drug trafficking, drug dealing and drug consumption are preoccupying human rights issues. Synthetic drugs appear to have invaded the market...What is needed in Mauritius is a fast track to deal with drug cases. A Drugs Court to try drugs offenders at all levels, whether it be traffickers, dealers, consumers. Drug trafficking trials tend to be prolonged if the evidence of mules has to be used against big dealers in cases of controlled delivery’

Further, sections 47(1) and 47(2) of the Dangerous Drugs Act provides as follows –

“47. Jurisdiction

- (1) Subject to subsection (2), a prosecution for an offence under this Act shall take place, at the sole discretion of the Director of Public Prosecutions, before a Judge without a jury, the Intermediate Court or the District Court.
- (2) A prosecution for an offence under sections 30 and 41 (3) shall take place before a Judge without a jury where it is averred that the accused person is a

drug trafficker.”

The total number of drugs cases disposed of by the Supreme Court, Intermediate Court and District Courts (all courts combined) for the years 2015, 2016 and 2017 is 2473, 2228 and 2112, respectively.

With regard to part (a) of the question, it is important to recall that the Report of the Presidential Commission to examine and report upon the structures and operations of the Judicial and Legal Professions of Mauritius [The Mackay Report] provides that –

‘2.8 It has been suggested that there is a necessity for a distinct Drugs Court, particularly in view of the present delay in drugs cases. We are of opinion that it would not be wise to set up a completely separate Drugs Court since the present jurisdictions of the existing courts allow them to deal with drugs but we do suggest that in the Intermediate Court it would be right to have a separate list to which drugs cases are assigned and the Magistrates to deal with these cases be designated for that purpose by the Presiding Magistrate of the Intermediate Court and again for the purpose of familiarising the magistrates with the basic problems of this drugs jurisdiction those assigned to dealing with these cases should be so assigned for a considerable period. In this way a special priority can be assigned to drugs cases since there is obviously a tendency in these cases that for some accused persons to do what they can to contrive for delay in the disposal of their cases and it is vital that those responsible for the administration of the court do not allow justice to be impeded in this way.’

Government has, in 2015, set up a Commission of Inquiry on Drugs. The Commission has completed its hearings and is in the process of finalising its report. Government will consider this matter in the light of the report of the said Commission of Inquiry and the recommendations made therein.

With regard to part (b) of the question, the House will note that out of the total number of convicted detainees as at April 2018, only 23% have been sentenced for drugs offences. On this matter as well, it will be better to wait for the report of the Commission of Inquiry on Drugs prior to reaching a decision on the setting up of a special prison for drug offenders.

ROAD ACCIDENTS (FATAL) – TOXICOLOGY TESTS

(No. B/730) Mr V. Baloomoody (Third Member for GRNW & Port Louis West) asked the Minister of Public Infrastructure and Land Transport whether, in regard to the fatal

road accidents which occurred since January 2016 to date, he will state if the blood of the drivers and of the victims thereof were submitted for toxicology tests and, if so, indicate the number of drivers and victims found to have in their blood alcohol levels above the prescribed alcohol level or to have been under the influence of drugs respectively, indicating in each case the level of alcohol/drugs detected, respectively, as the case may be.

Reply (Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues): I am informed by the Commissioner of Police that blood samples as well as stomach contents, urine and bile, where available, of drivers and victims killed in fatal road accidents are referred to the Forensic Science Laboratory for toxicology tests.

The information requested for is being compiled and will be placed in the Library of the National Assembly.

PRISONS - DISCHARGED PERSONS' AID COMMITTEE

(No. B/731) Mr V. Baloomoody (Third Member for GRNW & Port Louis West) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to the Discharged Persons' Aid Committee, he will, for the benefit of the House, obtain therefrom, information as to the composition thereof, indicating the –

- (a) names and qualifications of the members thereof;
- (b) reasons why it has not laid the reports of the activities thereof on the Table of the Assembly, and
- (c) actions taken to ensure that the discharged detainees are completely rehabilitated and provided with all the required assistance to return to normal life.

Reply: Section 57 of the Reform Institutions Act 1988 provides for the establishment of a Discharged Persons' Aid Committee which shall consist of such members as may be appointed annually by the Minister. A Probation Officer, not below the grade of a Senior Probation Officer, shall act as Secretary.

With regard to part (a) of the question relating to the names and qualifications of the members of the Committee, I am tabling the information requested for.

As regards part (b) of the question, in line with section 57(5) of the Reform Institutions Act 1988, the audited Financial Statements of the Discharged Persons' Aid Committee for the 18-months period ending 30 June 2016 and the corresponding report for

the Financial Year ending 30 June 2017 have been tabled in the National Assembly on 27 March 2018 and 17 July 2018, respectively.

As regards the report of the activities of the Committee, my Ministry was provided with two basic reports. However, I have requested for more comprehensive ones which I am informed are being worked upon.

Concerning part (c) of the question, I am informed that the Discharged Persons' Aid Committee meets once monthly at the Central Prisons, Beau Bassin to interview detainees prior to their discharge from prisons, with a view to guiding and helping them for their full integration in the society upon their release. The detainees are also advised on the different job opportunities available in the market that would suit their needs. They are assisted/guided to that effect by the Prison Welfare Officers.

In view of the increasing number of prisoners, I have requested the Committee Members to have more regular meetings to be able to dedicate more time in counselling detainees nearing discharge.

Moreover, I have approved that representatives of the Ministry of Social Security, National Solidarity and Environment and Sustainable Development (Social Security and National Solidarity Division) and the Ministry of Social Integration and Economic Empowerment also form part of that Committee.

The Discharged Persons' Aid Committee works in close collaboration with the Prisons Department. I have to inform the House that rehabilitation of detainees prior to their release has always been the core business of the Prisons Department. The following actions are being taken to ensure their rehabilitation-

- (i) pastoral care and moral instruction sessions;
- (ii) sensitisation programme on drug use prevention;
- (iii) residential counselling of detainees undergoing methadone substitution therapy;
- (iv) medical care and psychological support;
- (v) counselling on suicide prevention and positive thinking;
- (vi) art therapy and Tai chi classes;
- (vii) numeracy and literacy courses;
- (viii) MITD/MQA approved courses in welding, pastry, garment making and wood work. To date, 208 detainees have been awarded MITD/MQA approved Certificates for successful completion of course;

- (ix) training of detainees in various trades like bakery, vegetable production, composting, basketry and fibre craft; shoe making, tailoring, carpentry, housekeeping, masonry, painting and decorations;
- (x) courses in entrepreneurship, and
- (xi) every three years, two detainees are granted scholarships to follow distance learning courses leading to Bachelor's degree in Business Management at the Open University of Mauritius. As at date, two detainees have already been awarded a Degree in BSc (Hons.) Business Management with specialisation in Marketing in 2016. Two other detainees have been awarded scholarship for the same course by the Open University of Mauritius starting in August 2016 to August 2019.

Furthermore, to inculcate discipline, work culture and good conduct among detainees, the detainees receive earnings under the Enhanced Earning Scheme.

I would invite the hon. Member to refer to the reply I made to the Private Notice Question at our sitting of 17 July 2018, when I stated that we have also reformed our detainee remission system to do away with automatic remission and replacing it by earned remission based on the behaviour of detainees in a bid to focus more on their rehabilitation.

I am further informed that for the first time Juveniles of the Correctional and Rehabilitation Youth Centres participated in the Duke of Edinburgh Award Scheme last year. Eleven juveniles were awarded certificates and bronze medals. Follow-up upon release of these inmates will be ensured by the Probation and Aftercare Service and also by the Ministry of Youth and Sports as well.

I wish to add that eleven (11) dedicated NGOs are involved in the rehabilitation process at the Mauritius Prisons Service. The collaboration between the Prisons Department and these NGOs has been very effective in the rehabilitation of detainees. Most detainees follow a pre-release program comprising subjects such as anger management, forgiveness, re-integration in family, budget management, job search, job interview and preparation of curriculum vitae. The NGOs facilitate the resettlement of the discharged detainees by connecting them to services available in the community through counselling and close follow up.

I wish to reiterate that the Mauritius Prisons Service leaves no stone unturned in providing rehabilitation programs in terms of Educational, Vocational, Spiritual, Agricultural, Drug Rehabilitation Programs to all detainees in prisons.

GRNW & PORT LOUIS WEST - FLOODING

(No. B/733) 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 Constituency No. 1, Grand River North West and Port Louis West, he will give the list of the landslides and flash floods-prone areas thereat, indicating if appropriate warning signs will be placed prior to the next summer rainfalls season.

Reply: I am informed that there is presently no specific area in Constituency No.1 which is prone to landslides.

However, according to the National Emergency Operations Command falling under the aegis of my Ministry the following general areas in Constituency No. 1 have been affected by flooding during exceptionally high intensity rainfall –

- Bell Village ;
- Pailles;
- Pailles M1 Round About;
- Richelieu;
- Cité Débarcadère and Golden Lane at Pointe aux Sables;
- Canal Dayot;
- Sable Noir, and
- Caudan.

There is no specific warning protocol stipulated by the UN on the use of warning signs for flood prone areas

Warning signs are appropriate for hazards like landslides which are more site specific, that is, the site can be demarcated to good accuracy.

As for flood prone areas, except for traffic signs, it is generally not considered appropriate because floods are climatological phenomena which are influenced by geology, geomorphology, relief, soil and vegetation conditions as well as the built environment like buildings, bridges and roads. With such a dynamic nature, it is not possible to demarcate specific areas which could be prone to flooding.

During exceptionally high intensity rainfall, any river, canal and water course may get over flooded and cause flooding in the adjoining inhabited areas due to various factor such as debris build-up.

As such, the placing of warning signs to indicate flood prone areas is not appropriate as this may generate a false sense of security and could be misleading.

Nevertheless, portable warning signs are placed to temporarily restrict access to road users and the public at large from areas which may be affected during flooding.

It is also to be highlighted that temporary traffic signs are placed during flooding of roadways to restrict access for vehicles and for traffic diversion purposes.

GRNW & PORT LOUIS WEST - HOT SPOTS - SECURITY

(No. B/734) Mrs D. Selvon (Second Member for GRNW & Port Louis West) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to Constituency No. 1, Grand River North West and Port Louis West, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to if –

- (a) consideration will be given for the provision of additional security measures in the hot spots identified thereat where the highest delinquency/crime rates are reported, and
- (b) community policing with good communication and inter-action with the inhabitants thereof is or will be practised.

Reply: I am informed by the Commissioner of Police that the different areas in the Constituency No. 1 - Grand River North West and Port Louis West fall under the Policing Jurisdictions of five Police Stations, namely Line Barracks, Pointe aux Sables, Pailles, Bain des Dames and La Tour Koenig.

As regards part (a) of the question, I am informed by the Commissioner of Police that five hot spots areas have been identified in the Constituency. Consequently, the Police has taken the following measures with a view to reinforcing its presence and intervention at these places -

- (i) strengthening of relationship with representatives of the community through Community Policing Forums and door to door policing;
- (ii) use of modern technology – CCTV camera and drones to detect and prevent offences;
- (iii) daily road blocks and vehicle check points at odd hours;
- (iv) mobile patrols by day and night by the local Police, ERS,CID,DSU,DTP,ADSU and Anti-Robbery squad, and

- (vi) running of a community policing music course by the Mauritius Police Band for 25 children aged 5 to 18 to prevent them from indulging in doubtful activities.

Regarding part (b) of the question, in the context of community policing, since 2014 to date, 892 community policing forums involving some 7,858 participants at the neighbourhood, Police station and Divisional level. 601 policing problems have been solved.

During these forums, members of the community are encouraged to voice out their grievances and their needs and expectations are taken into consideration. They are also provided with feedbacks on the progress of the actions initiated. Non-policing issues are referred to appropriate agencies.

DRUGS SEIZURE – MARCH 2017 - MISSING

(No. B/736) Dr. A. Boolell (Second Member for Belle Rose and Quatre Bornes) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to the drugs seized in March 2017 which went missing whilst being in police custody, he will state when the Commissioner of Police reported same to him.

Reply: I was officially informed of this matter by the Commissioner of Police some time in early July 2018.

PETIT BEL AIR – HOUSING UNITS - BENEFICIARIES

(No. B/738) Mr T. Henry (Fourth Member for Mahebourg & Plaine Magnien) asked the Minister of Housing and Lands whether, in regard to the NHDC Housing Estate at Ville Noire, he will, for the benefit of the House, obtain from the National Housing Development Company Ltd., the list of the beneficiaries thereof, indicating when the housing units will be delivered thereto.

Reply: I wish to inform the House that there is no ongoing NHDC housing project at Ville Noire. However, if the hon. Member is referring to the NHDC housing project at Petit Bel Air, which has recently been completed, same consists of 73 housing units.

Landscaping and embellishment works are currently being carried out, in line with Government Policy to provide the forthcoming residents of the housing units as well as the nearby community with adequate leisure facilities.

The list of beneficiaries is currently being finalised and the housing units will be delivered once all the necessary formalities are completed.

