



SIXTH NATIONAL ASSEMBLY

PARLIAMENTARY

DEBATES

(HANSARD)

(UNREVISED)

FIRST SESSION

TUESDAY 23 OCTOBER 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, Minister of Gender Equality, Child Development and Family Welfare
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
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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
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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

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MAURITIUS

Sixth National Assembly

FIRST SESSION

Debate No. 28 of 2018

Sitting of Tuesday 23 October 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) Certificate of Urgency in respect of the following Bills (In Original):
 - (i) The Supplementary Appropriation (2016-2017) Bill (No XIV of 2018).
 - (ii) The Radiation Safety and Nuclear Security Bill (No XV of 2018).
 - (iii) The Judicial and Legal Provisions (No. 2) Bill (No. XVI of 2018).
- (b) Estimates of Supplementary Expenditure (2016-2017) of 2018.
- (c) The Income Tax (Amendment No. 2) Regulations 2018.
(Government Notice No. 127 of 2018)
- (d) The Income Tax (Amendment of Schedule) (No. 2) Regulations 2018.
(Government Notice No. 128 of 2018)
- (e) The Income Tax (Foreign Tax Credit) (Amendment) Regulations 2018.
(Government Notice No. 129 of 2018)
- (f) The Statutory Bodies Pensions Funds (Amendment of Schedule) (No. 2) Regulations 2018. (Government Notice No. 131 of 2018)
- (g) The Customs Tariff (Amendment of Schedule) Regulations 2018.
(Government Notice No. 132 of 2018)

B. Ministry of Business, Enterprise and Cooperatives

The Annual Reports 2014 and 2015 of the Ex-Small and Medium Enterprises Development Authority.

C. **Ministry of Financial Services and Good Governance**

The Insurance (Industry Compensation Fund) (Amendment) Regulations 2018.
(Government Notice No. 130 of 2018)

ORAL ANSWERS TO QUESTIONS

**COMMISSION OF INQUIRY ON DRUG TRAFFICKING – PRISON
ADMINISTRATION - INQUIRY**

The Leader of the Opposition (Mr X. L. Duval) (*by Private Notice*) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in view of the very serious issues with regard to the prisons services identified by the Commission of Inquiry on Drug Trafficking in Mauritius, he will state if he will consider the setting up, as recommended in paragraph 7.13.14 of the Report of the Commission, of an in-depth inquiry into the prison administration, including, to probe into the corrupt prison officers and also dealing with the –

- (a) control of drug trade from inside prisons;
- (b) rehabilitation and reintegration of prisoners, and
- (c) prisons infrastructures.

Sir Anerood Jugnauth: Madam Speaker, with your permission, I shall reply this PNQ together with PQ B/918 as they relate to the same subject matter.

At the outset, I wish to highlight that well before the publication of the Report of the Commission of Inquiry on drugs, I had instructed the Commissioner of Prisons to initiate a series of measures to control the entry of individuals in our prisons, including visitors and lawyers, as well as the entry of prohibited items such as mobile phones and illicit substances.

These measures were as follows -

- (a) Every detainee or any person entering the prison is subjected to a body search at the Search Room and security devices, such as handheld metal detectors, Body Orifice Security Scanner (BOSS) chair and Walk Through Metal Detector Door, are used to detect any intrusion of prohibited articles. Furthermore, “Under Vehicle Search Mirrors” are used to check

the underneath of vehicles when such vehicles are exceptionally allowed to enter the prison;

- (b) Officers are being lectured regularly on their prime duty which is to keep detainees in safe custody. They are regularly reminded that the presence of offensive weapons may endanger the lives of detainees as well as their own lives and simultaneously undermine the security of the prison;
- (c) The prison personnel continues to carry out strip searches upon detainees prior to allowing them in and out of the prison;
- (d) Selected Officers are posted at Watch Towers and they are instructed to be vigilant and alert at all times. They control and monitor the movement of persons walking on the road side of the security walls to detect the pelting of prohibited articles over the walls of the prison;
- (e) An application form was specifically designed and implemented to control the access of legal advisers into our prisons. This document had received the consent of the Bar Council. Following this measure, it has been noted that visits by legal representatives to the prisons have reduced considerably, and
- (f) Amendment has been brought to the Reform Institutions Act to criminalise the possession of prohibited articles inside the prisons and for such contraveners to serve sentence consecutively when found guilty by a Court of Law of an offence under the Reforms Institutions Act. The Ministry of Housing and Lands is currently conducting a survey of all prisons for the delimitation of zones, to allow the use of mobile phones in certain specific areas, for example in residential quarters.

Madam Speaker, following the publication of the Commission of Inquiry on Drug Trafficking Report in Mauritius, the Commissioner of Prisons set up a special committee to look into the findings and recommendations. Thereafter, as a first measure, officers who have been named in the Commission of Inquiry Report have been redeployed outside the prisons, where they do not have contact with detainees. Moreover, the Prison Intelligence Gathering Officers have worked out on different possible avenues for the entry of prohibited articles inside the prisons, and on 4 October 2018, a circular was issued by the Commissioner for security enhancement at the Gate Lodge in all prisons.

The Prisons Department has also established a close collaboration with Police for sharing of information and effecting wide searches in different prisons.

Additionally, the Prisons Department is in the process of acquiring another BOSS chair and a Walk Through Metal Detector Door for the Phoenix Prison.

To prevent pelted articles from reaching detainees and to deter those pelting these articles, the following additional measures have been taken –

- (i) Regular vehicular patrols are being carried out to reinforce security along the walls both inside and outside the prison.
- (ii) Some CCTV cameras have been relocated to deter pelting and a new CCTV surveillance system has been installed.
- (iii) Posting of sentry officers at places identified as being prone to pelting.
- (iv) Arrangement is being made for the compulsory acquisition of a stretch of land of 50m width on three sides of the Eastern High Security Prison for a “Buffer-Zone”.
- (v) One drone (Remotely Piloted Aircraft) equipped with camera has been procured for observation and surveillance of the prison security walls and its vicinity. Prison officers have already undergone training to operate the drone.

Madam Speaker, I am also informed that with the installation of outside lighting at Eastern High Security Prison, Melrose, this year, all prisons are now adequately lighted inside and outside during the night.

Outer CCTV surveillance system is operational in all prisons except at Richelieu Open Prison, Open Prison for Women and Eastern High Security Prison. However, currently prison staff are posted on foot patrol or vehicular patrol during the night. It is envisaged to introduce CCTV surveillance system in the outer perimeter of these prisons at a later stage.

Madam Speaker, as regards part (b) of the question, as stated in my reply to PQ B/474 of 22 May 2018, I enumerated the actions taken to ensure the rehabilitation of prisoners as follows –

- (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, some 205 detainees have been awarded MITD/MQA approved Certificates for successful completion of courses;
- (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, and
- (x) courses in entrepreneurship.

Moreover, 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. So far, two detainees have successfully graduated.

These measures are in line with Paragraph 139 of Government Programme 2015-2019.

Madam Speaker, as regards part (c) of the question, regular maintenance and repairs are being carried out in different prisons to provide a better working environment. As far as practicable, the Mauritius Prison Service is envisaging to redesign cells to deter detainees from committing suicide.

Madam Speaker, as stated by the Prime Minister in his reply to PQ B/804, a Task Force has been set up under the Chair of the Director General of the Independent Commission Against Corruption, to coordinate the implementation, by the relevant investigative agencies, of the recommendations contained in the Report of the Commission of Inquiry on Drug Trafficking and its annexes, in relation to –

- (i) further enquiries that the Commission has earnestly called for in a number of identified areas;
- (ii) those cases where names have been mentioned;

- (iii) cases where the Commission has drawn attention to but has not been able to gather sufficient evidence to investigate into;
- (iv) any other matter not mentioned in the Report but which might be related to the above, and
- (v) a Committee under the chair of the Secretary to Cabinet and Head of the Civil Service and comprising representatives of Ministries/Departments/Organisations concerned to look into the legal/institutional/administrative issues contained in the Report of the said Commission of Inquiry.

I also wish to inform the House that out of 87 recommendations concerning prisons made by the Commission of Inquiry, 32 measures have already been implemented and 22 other measures are currently being implemented. However, it is a fact that the implementation of a few other measures may take some time as they require amendments to legislation or a major change in policy decision.

Since a series of measures have already been initiated at the level of prisons and the Task Force is also conducting its assignment, it is not intended at this stage to set up an inquiry as requested by the Leader of the Opposition.

Mr X. L. Duval: Madam Speaker, it is not myself who is requesting the inquiry; it is the Commission of Inquiry on Drug Trafficking. May I just say, Madam Speaker, that the Rt. hon. Minister Mentor pastes a very rosy picture of the situation in prisons! This is completely at odds with the Commission of Inquiry Report published only three months ago.

My first question relates to the headquarters of the mafia which, apparently, according to the Commission, are found in the prisons themselves, in particular, Madam Speaker, the thirty or so Prison Officers who have been arrested, placed on bail, most of them for drug trafficking. The same Prison Officers have been reinstated into the Prison Service. Does the Rt. hon. Minister Mentor know that most of them have been posted to High Security Prisons? Does he find it normal that Prison Officers found trafficking in drugs, awaiting trial, on bail, are working inside High Security Prisons in Mauritius at this moment?

Sir Anerood Jugnauth: Madam Speaker, the question that is being put by the hon. Leader of the Opposition tries to show that all Prison Officers are corrupted and, therefore, we should get rid of all of them.

Those Prison Officers, like any other officers in the service, when they are caught doing things that are unlawful, they are interdicted, they keep on getting their pay every end of the month, and I know personally many of them work outside also. So, they are better off. In fact, I asked the Commissioner of Prisons that they should not stay on interdiction. When the case will come to Court, they will be found guilty, then relevant actions will have to be taken. But, in the meantime, make them work, but not in position where they will be in contact with detainees. I have been told that those who have been taken are working outside and they had nothing to do with prisoners.

Out of 22 officers recalled, only nine relate to drugs. They are all posted outside the prisons. And I must say that the present Commissioner of Prisons is doing a marvellous job. I am happy, I am satisfied, and I think he should be given the chance to complete everything that he intends doing. I must say that the situation in prisons, generally, has improved considerably.

Mr X. L. Duval: Can I ask the Rt. hon. Minister Mentor to verify the information? Because my information is that a number of these Prison Officers are, in fact, posted at the High Security Prisons, some are in charge of the watchtowers, which he is mentioning, and this is the situation today. So, I would like the Rt. hon. Minister Mentor to verify this situation.

I would like to ask him a second question concerning one Mr Ram Atwaroo, arrested two weeks ago with a substantial amount of drugs on him. Does the Rt. hon. Minister Mentor know whether he has implicated any Senior Prison Officers in his declaration?

Sir Anerood Jugnauth: Well, the hon. Leader of the Opposition has got wrong information in the first part of the question that he has just put. And insofar as Mr Ram Atwaroo is concerned, I need a specific question so that I can answer that. I have no information on that.

Mr X. L. Duval: Madam Speaker, I will come now to some very serious allegations by one notorious drug dealer called Siddick Islam. Madam Speaker, Mr Siddick Islam went in front of the Commission and handed over powder, which turned out to be Lannate, synthetic drugs, etc. He actually implicated one Prison Officer, saying that that Prison Officer came under instructions of the present Commissioner of Prisons. These are all facts, Madam Speaker. I would like to ask the Rt. hon. Minister Mentor what has happened to that one Prison Officer implicated in a case of attempted murder, no doubt - whether he is aware of

what happened to this person - and what happened since then to the statement by Siddick Islam a year ago?

Sir Anerood Jugnauth: Well, I do not have all this information. I cannot answer. Come with specific questions on specific individuals!

Mr X. L. Duval: Madam Speaker, how can the Rt. hon. Minister Mentor say that he is happy with the Commissioner of Prisons, he is happy with everything happening? Yet, he is not aware that notorious Siddick Islam had directly blamed his Commissioner of Prisons who has just received a garland from him. I think, Madam Speaker, the Rt. hon. Minister Mentor must take things seriously.

Sir Anerood Jugnauth: Well, if the Leader of the Opposition believes Mr Islam, that is his own business. I do not believe him. It is all lies.

Mr X. L. Duval: Madam Speaker, it is not a question of believing or not believing Mr Siddick Islam. I am going by the Commission of Inquiry which said, by the way, in page 39 - maybe the Rt. hon. Minister Mentor has not read - "of the dirty role of Senior Prison Officers", Madam Speaker. This is what Commissioner Lam Shang Leen has said, not me. So, I am asking again. He has asked Commissioner Lam Shang Leen for an in-depth inquiry, in particular with regard to what Siddick Islam has said. So, is the Rt. hon. Minister Mentor still going to stand behind this Commissioner of Prisons and all these Senior Prison Officers who have been severely blamed by the Commission of Inquiry?

Sir Anerood Jugnauth: Well, in all these cases mentioned, inquiry is being made. I have just been given an information that the Task Force will inquire also into cases where names have been mentioned in the Report of the Commission of Inquiry.

Mr X. L. Duval: The Rt. hon. Minister Mentor *fait fi des recommandations* of his own Commission of Inquiry which he has appointed. I would like to ask the Rt. hon. Minister Mentor one thing. Concerning Mr Islam, is he aware that since making that declaration, he has been tortured and punished, and kept in solitary confinement for nine months, against United Nations protocol and against the Reform of Institutions Act passed in this House itself? Is he aware of that?

Sir Anerood Jugnauth: I am not aware of that. I do not know.

Mr X. L. Duval: Madam Speaker, the Rt. hon. Minister Mentor must make himself aware. He cannot ignore all these things happening, implicating his own Commissioner of

Prisons, whom we know is now torturing someone who has implicated him in a case of murder in the prison. What hope can the Rt. hon. Minister Mentor give to this Nation, which is being struck down by drugs, that he is taking the issue of drugs in prisons, of drug barons in prisons seriously?

Sir Anerood Jugnauth: I must say that there was a time when drugs were being dealt with in the...

(Interruptions)

Madam Speaker: Hon. Dr. Boolell! You have started the...

(Interruptions)

Please, let me tell you...

(Interruptions)

Rt. hon. Minister Mentor, can you please resume your seat for one minute?

Hon. Dr. Boolell, from a sitting position, all remarks are not acceptable. Please, do not make provocations and allow the Rt. hon. Minister Mentor to reply to specific questions asked by the hon. Leader of the Opposition. I appeal to your good sense.

Sir Anerood Jugnauth: I must add that if the hon. Leader of the Opposition has proof of what he is alleging, therefore, I would ask him to go to the relevant authorities and make the complaint.

Mr X. L. Duval: Madam Speaker, I am not earning the pay of a Minister Mentor in charge of prisons and I will not do so. I will ask the Rt. hon. Minister Mentor whether he has even read the Commission of Inquiry Report, which he, himself, has appointed. Madam Speaker, concerning pay for guards, there is a specific recommendation that the pay should be increased substantially. Is the Rt. hon. Minister Mentor aware, has he cared to write to the PRB to ask them to review upwards the pay of Prison Officers, and also whether recruitment procedures have been changed even for the 150 or so Prison Officers who are being recruited at this moment in time?

Sir Anerood Jugnauth: The hon. Leader of the Opposition is blaming the Prison Officers. At the same time, he is asking me to ask the PRB to increase their pay. Well, they do not deserve anything of that sort.

Mr X. L. Duval: Madam Speaker, the hon. Leader of the Opposition is merely reading the Report which the Rt. hon. Minister Mentor has not read. That is the situation. It is there, Madam Speaker, in the Report.

Madam Speaker: Hon. Leader of the Opposition, ask your question! You are losing time!

Mr X. L. Duval: Madam Speaker, concerning the 40 major drug dealers who continue to control distribution networks within the confines of their cell - page 78 of the Commission of Inquiry - I would like to ask the Rt. hon. Minister Mentor what he has done to stop the drug ring in prisons and whether he is aware or not if the situation is continuing inside the prisons.

Sir Anerood Jugnauth: It is not correct to say that the situation is continuing. I had the courage to set up a Commission of Inquiry.

(Interruptions)

But within 10 years, the hon. Leader of the Opposition was a party in the Government. What did they do insofar as drug trafficking in this country is concerned?

(Interruptions)

Madam Speaker: Hon. Jhugroo! This is the first warning!

Mr X. L. Duval: I can go into length into accusation, I will not do so. But I am going to great length into accusation. Madam Speaker, obviously, he has ordered a report and not read it; this is clear to the nation completely. Madam Speaker, concerning infrastructure, it seems obvious that we should place wire netting around, over the top of the prison walls, where, apparently, there is this pelting of telephones, drugs, guns, knives, Lannate. I do not know what is happening. Why such a simple thing like putting wire netting - a cheap thing - to stop pelting has not been done up to now?

Sir Anerood Jugnauth: It has been quite some time now that there had been no case of pelting. Now, all these wiring and all that, it will take time. It will be considered.

Mr X. L. Duval: I would like to ask ...

Madam Speaker: Just one minute, hon. Leader of the Opposition! I said that usually Question Time would end at 12.05 p.m., but since there is a question from hon. Baloomoody,

if, at some point in time, you can give the floor to hon. Baloomoody, so that he can ask his question, then, I will give additional minutes for that and we will finish at 12.10 p.m.

Mr X. L. Duval: Sure! Madam Speaker, I would like to ask the Rt. hon. Minister Mentor why all these things are happening to watchtowers? Only one out of three or four are being manned in Beau Bassin and the rest is not being manned. Why is that?

Sir Anerood Jugnauth: Well, does the hon. Leader of the Opposition expect that everything will be done overnight, that everything will be done as if like a miracle? Well, have patience!

Mr X. L. Duval: Madam Speaker, I would like to ask the Rt. hon. Minister Mentor - these 2,000 and so prisoners, whatever they may have been accused of, some on remand, they are human beings - if he is aware that blocks A and B of Beau Bassin Prison has no Fire Certificate. It can intern 1,200 people locked up in their rooms with no fire extinguishers, no fire certificate for Blocks A and B and, in fact, for the whole of Beau Bassin Prison.

Sir Anerood Jugnauth: There has been so far no fire there.

Mr X. L. Duval: Madam Speaker, what a shame!

(Interruptions)

It is a shame! Are you only aware of what has been happening overseas, how many people or prisoners have died? I think it is even against the UN Convention what the Rt. hon. Minister Mentor has just said, Madam Speaker. I would like to ask the Rt. hon. Minister Mentor whether he is aware that they have 150 cameras in Beau Bassin but, as usual, there is always a problem with this Government. Only one officer is monitoring 150 cameras on 24 screens for hours, up to 6 hours at a time! Does he find it even logical that this situation should exist?

Sir Anerood Jugnauth: They have been talking against Safe City Project. From time to time, they come and say: 'Here, there must be cameras; there, there must be cameras'. Well, cameras are coming and they will be there everywhere.

Mr X. L. Duval: Madam Speaker, this is my last one and then I will give the floor. The Commissioner Lam Shang Leen has done an excellent report. It is a shame that Government has not applied hardly any of it. The Commissioner Lam Shang Leen has said that there should be a juge d'application des peines, so that for rehabilitation and reinsertion purposes, which is, as he says himself, the ultimate goal of imprisonment, that the juge

d'application des peines should be set up, a system should be set up by Government, so that the trend in recidivism which has been increasing under this Government can be reversed. Can I have his opinion on what will happen to this proposal?

Sir Anerood Jugnauth: Well, it does not mean that every recommendation is a sacred one. We are not bound to agree with everything that has been said in the report. This last question in favour of prisoners....

(Interruptions)

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

Sir Anerood Jugnauth: From what we have been hearing so far, do they really deserve it?

Madam Speaker: Hon. Baloomoody!

Mr Baloomoody: Thank you, Madam Speaker. Recently, there have been two arrests in the prison compound, namely, a nursing officer, Mr Khodabocus with synthetic drugs, and Mr Ram Atwaroo with 61 grams of drugs. Can I ask the Rt. hon. Minister Mentor, each and every person is supposed to be searched before they enter the prison, whether at the prison level there has been an enquiry to find out how these drugs by the two civilians - they are not Police Officers or Prison Officers, one is a cook and the other one is a nursing officer - entered the prison?

Sir Anerood Jugnauth: Well, if they have been found with drugs, it means they must have been searched. Therefore, there certainly must be an enquiry going on. We will have to wait and see what is the result. Most likely there will be prosecution in such cases. Yes, the Police is inquiring.

Mr Baloomoody: There was a team known as 24/7 Team which was allowed to enter the prison without any search and at any time. Can I ask the Rt. hon. Minister Mentor whether this 24/7 Team is still operational and whether they are allowed to enter the prison without any search and at any time, especially at night?

Sir Anerood Jugnauth: It is no more so, Madam Speaker.

Mr Baloomoody: One of the recommendations of the report is that articles are being thrown over the wall. Is the Rt. hon. Minister Mentor aware that, up to last night, there is no 24-hour cover on the Tower at most of the prisons?

Sir Anerood Jugnauth: Well, I think the hon. Member has been misinformed. I have just enumerated all the actions that have been taken and lately there has been no pelting whatsoever.

Mr Baloomoody: With regard to rehabilitation, is the Rt. hon. Minister Mentor aware that since cigarettes have been banned, for the last week, more than 10 days, all the shops, be it carpentry, masonry etc. have been closed, as if as a *punition* for all those who want to earn a cigarette?

Sir Anerood Jugnauth: I do not know if they all have been closed. Maybe, I can get some information on that.

(Interruptions)

Madam Speaker: No! You have already asked three questions, hon. Baloomoody! I am sorry!

Sir Anerood Jugnauth: The information which has just come to me is that what is being stated by the hon. Member is not true at all.

(Interruptions)

Madam Speaker: Last question, hon. Leader of the Opposition! There is one minute left!

Mr X. L. Duval: Madam Speaker, let me ask the Rt. hon. Minister Mentor - I am sure that this one he must be aware - recently a Prison Officer had been recruited and was found, in fact, to have been arrested, to be on bail and charged with double murder. This one has been found. What is the problem with this system? How can he give the assurance to the House that no such other case exists in the prison system at the moment? How is it that someone has been arrested and is charged with double murder can be recruited and working in the prison service? Where was the problem, has an inquiry been made and how can we be sure there are not others in the service?

Sir Anerood Jugnauth: Well, I must say that that person was not recruited by the Commissioner of Prisons. There is an institution which recruits the officers for the prisons and when it was found out, action has been taken and he has been chucked out.

Madam Speaker: Time is over!

Madam Speaker: Time is over! Hon. Members, the Table has been advised that PQ B/887, in regard to the second-annual Future Investment Initiative scheduled to be held in Riyadh, Saudi Arabia from 23-25 October 2018, will be replied by the hon. Minister of Foreign Affairs, Regional Integration and International Trade. Hon. Osman Mahomed!

GOVERNMENT & PUBLIC ENTERPRISES - LOANS

(No. B/880) Mr Osman Mahomed (Third Member for Port Louis South & Port Louis Central) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to loans taken by Government and parastatal bodies through Special Purpose Vehicles and/or guaranteed by Government, since January 2015 to date, he will give a list thereof, indicating in each case the terms and conditions thereof.

The Prime Minister: Madam Speaker, I am tabling a list of loans taken by Government and public enterprises through Special Purpose Vehicles and/or guaranteed by Government since January 2015 to date as requested by the hon. Member.

Mr Osman Mahomed: Can I have a copy of the paper, please? In the meanwhile, can I ask the hon. Prime Minister whether these loans that have been taken through SPVs, being given that the hon. Prime Minister, himself, has stated that the monthly repayment of these Special Purpose Vehicles is ensured by Government, are included in the national debt figure?

The Prime Minister: Yes, all the figures are being included when taking into consideration the calculation for the public sector debt.

Mr Osman Mahomed: Can I ask the hon. Prime Minister whether, being given that these loans are being guaranteed by Government, and when they are being implemented by Special Purpose Vehicles, all tendering procedures follow scrupulously the provision of the Public Procurement Act or these companies or private companies follow their own tendering procedure?

The Prime Minister: I can assure the hon. Member that all procedures with regard to regulations and to the law are being abided by.

Mr Osman Mahomed: In reply to my question earlier this year, the hon. Prime Minister has stated that our debt level has moved from 2014 to 60.7%, then to 62.9%, and now it is hovering at 65%, which is way above the provision of the law.

Now, being given that Special Purpose Vehicles are currently being used, can I ask the hon. Prime Minister whether going forward Special Purpose Vehicles will still be used and whether their counting in the national debt is exactly the same as it is when Central Government borrowed through a line of credit?

The Prime Minister: Madam Speaker, I fail to understand this question because I have stated that any loan that is being taken by Special Purpose Vehicles whereby that Special Purpose Vehicle is owned by Government, that figure goes into the calculation for the public sector debt. I cannot be clearer than that. So, I can assure the Member that everything is being taken into consideration for the calculation.

Madam Speaker: Hon. Ramful!

Mr Ramful: May I ask the hon. Prime Minister with regard to the USD 500 m. that was taken from EXIM Bank of India and channelled through the SBM Ltd, can we know how much fund has been disbursed so far and can we have a list of the projects for which the money was used. I know the hon. Minister does not have the list. Can he circulate the list?

The Prime Minister: If the hon. Member had been following what we have given in terms of information in this House, when I took the care and the pain, I must say, to provide it, during the last presentation of the Budget, although I was not obliged to do so, and to table it in this very House, he would have seen - and he can look at the website of the Ministry of Finance - a list of all the projects that are going to be financed by the line of credit, and, so far, we have not drawn any amount from that line of credit.

Madam Speaker: Hon. Dr. Boolell!

Dr. Boolell: Thank you very much, Madam Speaker. I do not share the views expressed by the hon. Prime Minister with respect to allocation of tender. Will the hon. Prime Minister state whether the Special Purpose Vehicles have been tailor-made to favour bidders who are close to the regime?

(Interruptions)

The Prime Minister: The hon. Member can only say that in Parliament here, he cannot say that outside.

(Interruptions)

I ask him to say that outside.

(Interruptions)

Madam Speaker: Order!

(Interruptions)

Order!

The Prime Minister: Madam Speaker, I know what the hon. Member is referring to. In fact, this is another instance where he is attacking India again.

(Interruptions)

Madam Speaker: Please!

(Interruptions)

The Prime Minister: Because he knows very well that with the financing that we are getting from India, part of that financing is in terms of grant and he knows very well what are the regulations that apply, what is the law that applies, in case we are getting a grant from a friendly country as India.

There is also provided in the law that Government can recommend for a particular project, a contractor from that country. And this is where the hon. Member is saying that we are favouring one particular or the other contractor, but I tell him to go and see the law, and I refer him again to what – I remind him, maybe he has forgotten himself - he stated in this very House in his intervention during Budget time where he attacked India...

(Interruptions)

...where he attacked the High Commissioner of India.

(Interruptions)

Madam Speaker: Order!

(Interruptions)

Hon. Dr. Boolell!

(Interruptions)

I am on my feet. Hon. Dr. Boolell, not from a sitting position! This is the second time I am telling you that any remarks from a sitting position is not acceptable.

(Interruptions)

If you have a point of order, hon. Shakeel Mohamed, you stand up and make your point of order, but you cannot, from a sitting position, make all sorts of remarks. Yes, next question, hon. Bhagwan!

**ECONOMIC DEVELOPMENT BOARD - CHIEF EXECUTIVE OFFICER -
APPOINTMENT**

(No. B/881) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to Mr F. G., Chief Executive Officer of the Economic Development Board, he will, for the benefit of the House, obtain from the Board, information as to the terms and conditions of the contract of appointment thereof, including the total monthly pay packet.

The Prime Minister: Madam Speaker, following an international advertisement and a selection exercise, Mr F. P. G. was appointed Chief Executive Officer of the Economic Development Board on 26 July 2018, in accordance with section 10(1) of the Economic Development Board Act. He assumed duty on 20 August 2018.

Mr F. P. G., a French national, holds a Master's Degree in Electronic Engineering from *École Centrale*, Marseille, France. He has an international career path with over 38 years of experience and has, *inter alia*, been part of a senior management team of a global company engaged in microelectronics, with the last 12 years as President of the Group for Greater China and South Asia, based in Singapore.

As part of his career, Mr F. P. G. has also held various non-executive positions including the Chairperson of the EU-ASEAN Business Council, and of Commerce & Industry, France-Taiwan. He has also been the Board Director and Chairperson of the Audit Committee of the Singapore Economic Development Board.

It is on the basis of his track record, in particular with regard to his expertise and international networks, that the Economic Development Board has offered Mr F. P. G. a contract of three years, with a gross monthly salary of USD 27,000 together with a housing allowance of Rs100,000. He is also entitled to a Chauffeur Driven Car and to two Business Class Air Tickets on a yearly basis.

Madam Speaker: Hon. Bhagwan!

Mr Bhagwan: Can I know from the hon. Prime Minister whether the Economic Development Board is fully operational by now?

The Prime Minister: Well, it depends what you mean by fully operational. It is operating, but I don't know what you are getting at. Is it in terms of whether there has been recruitment of all human resources? They are still looking into recruitment exercises that are, I believe, ongoing.

Madam Speaker: Hon. Bhagwan!

Mr Bhagwan: Can the Prime Minister give assurance to the House, from what we understand there is recruitment which is in process and which will be effected at the EDB, it won't be jobs for the boys and political agents appointed at the Board.

The Prime Minister: Madam Speaker, I mean this matter has been raised before and again but, let me say, perhaps there were apprehensions, with the setting up of the EDB, the Board itself, we would probably from the Opposition be favouring nominations of certain people. But if you look at the composition of the EDB as it is today, you will see that there is no one who has been involved either closely or by far in politics or directly or indirectly with any of the parties in Government. So, we have made it a point to choose people who are basically in business, people who have experience and people who will be able, in fact, to contribute in a fruitful manner to the operation of the EDB. I am advised that the recruitment of the CEO itself shows the way forward wherein we have put emphasis on competence and on skills for that very important agency.

Madam Speaker: Hon. Leader of the Opposition!

Mr X.L. Duval: May I ask the hon. Prime Minister - I presume he must have met the gentleman, the new CEO - whether he has raised with him, the decimal record of EDB to date, in terms of its principle goal, that is, attracting FDI? The figures are published this week by the Bank of Mauritius - Rs4 billion shortfall compared to the same period last year, first six months of last year, for 30 % less and not 10 % as were in the paper yesterday. 30% less FDI into Mauritius in 2018 first half compared to 2017 first half. Has he raised that with EDB and with this new CEO?

Madam Speaker: Hon. Leader of the Opposition, I just want to draw your attention to the fact that the question relates to conditions of contract of appointment and the total monthly pay packet, so that roping in additional statement with regard to the economy is not accepted. Ask your question, but be concise, please!

Mr X.L. Duval: Madam Speaker, can I just take you back to the previous answer by the Prime Minister just now, saying that EDB is performing perfectly well. He just answered that and this is the reply to his question, this is why the question was asked from opening of the debate by the Prime Minister, himself, Madam Speaker.

(Interruptions)

Yes it is.

The Prime Minister: Madam Speaker, anyway, I can answer. Let me remind the hon. Leader of the Opposition that, for the last financial year, the level of FDI has been increasing from the previous year.

(Interruptions)

Yes, he can check, I don't have the figures with me, but I can provide him with the figures. But the hon. Leader of the Opposition is talking about comparing one period with another. Let us reach the end of the year when we shall be able to compare figures and then we shall see.

Mr X.L. Duval: *Après la mort, la tisane!*

The Prime Minister: Not *après la mort, la tisane!* The hon. Leader of the Opposition knows a football match is played in 90 minutes, not half time!

(Interruptions)

So, he wants to compare half time figures!

(Interruptions)

Wait for the final whistle, wait for the referee to blow the final whistle, then he will see the figures!

Madam Speaker: Hon. Ganoo!

(Interruptions)

Mr Ganoo: Madam Speaker, the hon. Prime Minister did not answer the question whether he has recently met this gentleman, but can I ask him, if this has been the case, or if he will meet him in the near future, and will he raise with him the two problems that are impeding the progress of this institution? The first one being the frustration of former employees of the FSPA and the Enterprise Mauritius who feel that they are not being given

the right treatment in this new environment and secondly, the delay in kick-starting all the major projects that have been announced by the Prime Minister himself in his recent Budget, the National Electronic Licensing, the National Regeneration Scheme, the Sheltered Farming Scheme, the Film Production Scheme, the Sandbox Licence Committee. All these projects have to be kick-started.

The Prime Minister: Well, maybe the hon. Member is not well informed, I must say. He has mentioned numerous projects. I am just answering from memory. The sheltered farming, I, myself, was there for the inauguration. We have already launched it. Of course, it is ongoing. The other projects which I just heard – I could not catch all the projects that have been mentioned - some of them I know, are in the pipeline. I mean things cannot be materialised just the other day, so, of course, all these are being done. Now, with regard to my meeting, yes, of course, I have been meeting on and off the CEO and, of course, there are issues pertaining to investment, to FDI, to projects that are being discussed.

Madam Speaker: Next question, hon. Bhagwan!

MBC – INDUSTRIAL RELATIONS

(No. B/882) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the Mauritius Broadcasting Corporation, he will, for the benefit of the House, obtain therefrom, information as to if tense industrial relations are prevailing thereat and, if so, indicate the actions taken in relation thereto, if any.

The Prime Minister: Madam Speaker, I am informed by the Officer-in-Charge of the Mauritius Broadcasting Corporation that the industrial relations prevailing at the Corporation are not tense. As a matter of fact, the Mauritius Broadcasting Staff Services Association, the only registered trade union at the MBC, has officially written to the Officer-in-Charge of the Corporation on 10 October 2018 to thank the Chairperson, the members of the Board and the top management for their collaboration and fruitful negotiations in the interest of the employees of the Corporation.

The Officer-in-Charge has further pointed out that the top priorities of the MBC Board are to maintain sound working relations and conditions within the Corporation, as well as to ensure a conducive working environment for the welfare of the employees. It is also the

prime responsibility of management to administer sound discipline within the Corporation and employees are required to adhere to policies, rules and regulations in force at the MBC.

Towards that end and in the spirit of good industrial relations, the management of the MBC adopts an open door policy and has regular meetings and consultations with the Mauritius Broadcasting Staff Services Association to discuss human resource issues including appointment, promotion, training, assignment of higher responsibilities, amongst others, and to come up with solutions in the best interest of employees.

Madam Speaker, I have seen the article which appeared in today's issue of a morning newspaper which tends to show that the industrial relations at the MBC are not what they should be. We need to distinguish between sensational make-believe and hard facts and reality.

The House would appreciate that the MBC has for years now not been exempt from isolated cases relating to industrial relations. The MBC has also been a pet target. One glaring example of such situations is illustrated by the setting up of a Fact-Finding Committee by the former Government in 2011 on the dismissal of an employee of the MBC which made the headlines.

Madam Speaker, this is why I now emphasise that employees aggrieved by any decision of the MBC in regard to industrial relations issues can avail themselves of legal avenues and seek remedies from the Conciliation and Mediation Services of the Ministry of Labour, Industrial Relations, Employment and Training and other institutions, such as the Commission for Conciliation and Mediation, the Employment Relations Tribunal and the Industrial Court, as appropriate.

Madam Speaker: Hon. Bhagwan!

Mr Bhagwan: I have a few supplementary questions. The hon. Prime Minister has made mention of the officer in charge of the MBC/TV. Can he inform the House since when we have this Officer-in-Charge and what is happening concerning the post of Director General itself? I understand it is vacant. Can the hon. Prime Minister give us, the country, an idea as to when a full-fledged Director General will be appointed?

The Prime Minister: Well, he has been nominated as Officer-in-Charge, but obviously whenever the time comes, of course, we will do the needful to have a Director General.

Mr Bhagwan: Madam Speaker, can the hon. Prime Minister inform the House whether one of the qualifications of this Officer-in-Charge is that - he has made an interview on ION News stating that he is a fan of Pravind Jugnauth, this is why he is behaving as if he is the owner of the MBC/TV. Did the hon. Prime Minister have the opportunity to watch this interview he gave on ION News?

The Prime Minister: Well, I am happy that I have got many fans now.

(Interruptions)

But I can assure the hon. Member that fan or no fan, he has to do his work according to the responsibility that has been bestowed upon him and according to the scheme of duty to which he has to adhere to.

Mr Bhagwan: Has the attention of the hon. Prime Minister been drawn of a meeting on 17 September last in the Board Room of the MCB/TV where one very influential member of a Trade Union was assaulted and that was brought to the attention of the hon. Prime Minister, whether he has been made aware and whether he had the opportunity to discuss with this blue-eyed boy, this Officer-in-Charge, and what action has been initiated to prevent recurrence of such behaviour from an Officer-in-Charge of a public institution?

The Prime Minister: That is why I have said in my answer that the hon. Member should not believe everything that is being printed and written in the Press. I am informed that it is not true and that no one has been assaulted during that meeting. When I saw that, I also carried out an inquiry, and I wanted to make sure that I get all the information. I must tell the hon. Member that I sought information from different quarters, not only from the Officer-in-Charge, because, obviously, one can say that he will give one version, but I sought information from other people as well who were present, and I can say that there is no evidence, there is no information, that anyone has been assaulted during that meeting. There were discussions between, of course, Trade Unionists and the person who was being reproached of misconduct. Of course, discussions are discussions, but no one has been assaulted.

Madam Speaker: Hon. Mrs Perraud!

Mrs Perraud: Can the hon. Prime Minister state to the House whether the fact that there are two categories of employees working at the MBC, one group of employees who are employed, and the other one working on contract, this definitely creates great frustration and a sense of injustice, and this lead to tense industrial relations?

The Prime Minister: Madam Speaker, this has always been the case and it will be the case because MBC will employ a number of people for posts on the establishment, but there are a number of other employees who will be recruited as freelancers because there are specific reasons why this is the case, and this is not something which is abnormal. I do not see at any time any change in policy. Anyway, there is not going to be a change from this Government for the MBC right now, but there will be people who will be recruited as freelancers also.

Madam Speaker: Next question, hon. Ameer Meea!

DECLARATION OF ASSETS BILL – INTRODUCTION

(No. B/883) Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East) 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 proposed introduction of the new Declaration of Assets Bill, he will state where matters stand, indicating the expected date of introduction thereof in the House and if same will be circulated prior thereto.

The Prime Minister: Madam Speaker, as the House is aware, Government has, in its 2015-2019 Programme pledged to come up with a new Declaration of Assets Act. Accordingly, action has been initiated for the implementation of this measure. As a matter of fact, a Committee of Officials under the Chair of the Secretary to Cabinet and Head of the Civil Service examined numerous issues pertaining to a new declaration of assets regime.

Subsequently, a Ministerial Committee under the Chair of the Deputy Prime Minister and Minister of Energy and Public Utilities was set up to look into the proposals made by the Committee of Officials.

The Ministerial Committee met on several occasions and thoroughly examined the core fundamental aspects of the proposed new Declaration of Assets regime.

The Ministerial Committee has completed its assignment and submitted its report.

The proposals made by the Ministerial Committee are currently being examined.

Madam Speaker, the House will appreciate that the subject of Declaration of Assets has many complex issues, which require due care and caution.

Mr Ameer Meea: Madam Speaker, I am a bit shocked to see the same reply to Parliamentary Question B/899 dated 05 December 2017 where the hon. Prime Minister stated

that the Ministerial Committee of the Declaration of Assets Act had already completed its assignment and submitted its report. He also stated and I quote –

“The proposals are being examined at the level of my office.”

So, can I ask the hon. Prime Minister how long does his office need to work on the report which has already made its homework?

The Prime Minister: As long as it will take, Madam Speaker. I can understand why the hon. Member is shocked, not for this reason. He must be shocked for other reasons. But, Madam Speaker, he should realise one thing: we are not dealing with flimsy matters here, we are dealing with very serious, important Bills that, eventually, I hope, will come before this House.

The hon. Member has been saying the same thing with regard to electoral reform. He has been saying each time: why is it that we are not coming with electoral reform? We have the same answer. And when we came with the proposal, then he started ...

(Interruptions)

I do not want to go into that, with what happened. But, with this one, we are working and I am presently examining a number of those recommendations that have been made. We need some time, but let us see whether we shall be able to come with a Bill before this House.

Mr Ameer Meea: Madam Speaker, let me remind the hon. Prime Minister that this was the priority, *les 12 priorités des trois premiers mois du gouvernement, du manifeste électoral de l’alliance Lepep*.

Having said so, Madam Speaker...

(Interruptions)

Madam Speaker: Order !

Mr Ameer Meea: *Peut-être, ce sont les trois derniers mois, vous avez raison !*

(Interruptions)

Trois derniers mois, je m’excuse !

Madam Speaker, there are several aspects of a Declaration of Assets and one of the main aspect is whether to make the declaration public or not, and this is the crux of the matter. Can I ask the hon. Prime Minister if he, his Ministerial Committee or his Government

is agreeable to the fact that the declaration must be made public and it should not be kept in a drawer in ICAC?

The Prime Minister: We still have some time before the end of the mandate. As I say, we shall see. Time will tell whether we are able to keep our promise and whether we shall be able to come with a proposal before this House. That is all I can say. But, with regard to the contents, whether there is going to be disclosure and this and that, that is exactly what we are looking at, and then we shall see whenever there is any recommendation that will be made to Cabinet, Cabinet will decide.

Madam Speaker: Hon. Leader of the Opposition!

Mr X. L. Duval: Can I ask the hon. Prime Minister to remind the House as to the date of the appointment of the Collendavelloo Committee on the Declaration of Assets? It was some time, I think, in 2015.

The Prime Minister: Well, it does not matter whenever the Committee was appointed. To me, it is not important, it is not material. Madam Speaker, what is important to me is just like what we have done with regard to Electoral Reform. We have been working, we have come up with a proposal. We are working with regard to Declaration of Assets. We are also working with regard to Financing of Political Parties, we shall see. We still have time and I am sure, just like the football match, he will see, and we shall score.

Mr X. L. Duval: Can I ask the hon. Prime Minister to confirm, there are so many advisors here, that it was in the first quarter, as far as I remember, of 2015? So, we are talking about three or something years ago that the Collendavelloo Committee sat.

(Interruptions)

The Prime Minister: Again, I do not see the importance of when the Committee was set up, and what is being done. This is the work of Government. This is how we work. The challenge from the Opposition is: are we coming with a Bill before this House? Let us see!

Madam Speaker: Hon. Dr. Boolell!

Dr. Boolell: Thank you very much, Madam Speaker. It stands to reason the Prime Minister has come up with lame excuses. Since he said we have to look at it with due care and caution, therefore, can I understand that there will be no draft legislation and that it is stillborn?

Madam Speaker: He has already replied, hon. Dr. Boolell!

(Interruptions)

The Prime Minister: Yes, you are right. He is very rusty.

Let me remind him, what did the Labour Party do? The hon. Member is talking about Declaration of Assets. What did they do? He is talking about transparency.

(Interruptions)

Madam Speaker: Order, please!

(Interruptions)

The Prime Minister: He is talking about transparency. They are the ones who amended the law.

(Interruptions)

Madam Speaker: Hon. Shakeel Mohamed, I do not think that you have the right to impute motives from a sitting position. Please, do not make any comments from a sitting position!

The Prime Minister: Madam Speaker, I just wanted to remind the hon. Member...

(Interruptions)

Madam Speaker: I better be deaf at what you said.

The Prime Minister:... that it was the Labour Party which amended the law, in fact, to make this even less transparent. They know what I am talking about. I do not want to dwell on it.

(Interruptions)

Madam Speaker: I will allow two additional questions. Hon. Bhagwan! Be quick please, because I have already given three additional minutes. Now, we will give five additional minutes, so ask your question.

Mr Bhagwan: I would not be able to run anyway. I will ask my question

Madam Speaker: Please, do not make comments, but ask your question!

Mr Bhagwan: Madam Speaker, while discussing previous PQs, the Member of the Opposition asked the Prime Minister, even the Rt. hon. Minister Mentor when he was Prime Minister, whilst preparing the Bill, whether Government will take action to include Advisers,

Senior Advisers and also Chairpersons of Government-owned companies in the proposed legislation which will come before us?

The Prime Minister: Again, this is being looked into and eventually we shall take the decision on that.

Madam Speaker: Last question, hon. Ganoo!

Mr Ganoo: I am very surprised at what the Prime Minister said in an answer to hon. Ameer Meea: ‘If a Declaration of Assets Bill is not public, there is no need of bringing such a Bill’. Therefore, can he give confirmation to this House that whatever contents of this Bill will be, this Bill must oblige the hon. Members of this House to declare their assets publicly, if not, it defeats the whole purpose of having a Declaration of Assets Bill?

The Prime Minister: Madam Speaker, we have a way of doing things in Government. There is a process for years.

(Interruptions)

Attane to pou konné! Be more patient!

As I have stated, the Ministerial Committee has made recommendations. I am looking at these recommendations. Eventually, what will happen, the recommendations will go to Cabinet. Members of the Cabinet will be able to discuss at length with regard to those recommendations and eventually a decision will be taken. So, that also will be looked into, I am sure, by this Government.

Madam Speaker: Time is over! Hon. Members, the Table has been advised that PQ B/892, in regard to the value of school materials and uniforms distributed for the year 2018 by the National Empowerment Foundation, will be replied by the hon. Minister of Social Integration and Economic Empowerment. PQ B/903, in regard to the Commission of Inquiry on Prescription, will be replied by the hon. Attorney General, Minister of Justice, Human Rights and Institutional Reforms. PQ B/905, in regard to elaboration of a Master Plan for the development of the Bénéitiers Island, will be replied by the hon. Minister of Housing and Lands. PQ B/927, in regard to the request for the organisation of concerts and musical events on football grounds, will be replied by hon. Minister of Youth and Sports.

Hon. Rughoobur, you have the floor!

**NATIONAL CORPORATE SOCIAL RESPONSIBILITY FOUNDATION –
FUNDS DISBURSED**

(No. B/889) Mr S. Rughoobur (Second Member for Grand’Baie & Poudre d’Or) asked the Minister of Social Integration and Economic Empowerment whether, in regard to the National Corporate Social Responsibility Foundation, he will, for the benefit of the House, obtain therefrom, information as to the quantum of funds injected therein since May 2018 to date, indicating the quantum thereof disbursed to registered Non-Governmental Organisations.

Mr Wong Yen Cheong: Madam Speaker, with your permission, I shall make one reply to Parliamentary Questions B/889 and B/890 as they are closely related.

I am informed by the National Corporate Social Responsibility Foundation that since May 2018 to date, an amount of Rs420,547,986.30 has been remitted to the Foundation by the Mauritius Revenue Authority. As at 18 October 2018, funds to the tune of Rs175,067,902 representing 87% of the amount of the Rs201 m. earmarked for the First Call for Proposals, have already been disbursed to the Non-Governmental Organisations. The remaining amount has been earmarked for the Second Call for Proposals, presently at evaluation stage.

Madam Speaker, the information concerning the amount of funds disbursed to Non-Governmental Organisations as at June 2018 has already been tabled in reply to Parliamentary Question B/604 of 10 July 2018.

Madam Speaker, with your permission, I am once again circulating the information on funds disbursed as at 18 October 2018 to Non-Governmental Organisations by the National CSR Foundation.

Madam Speaker, with regard to Parliamentary Question B/890, the House was also informed, in the reply made to Parliamentary Question B/604 of 10 July 2018, that the guidelines for the Call for Proposals for the year 2017 were already available on the website of the Foundation.

However, I wish to inform the House that these guidelines have been reviewed by the Foundation after wide consultations with relevant stakeholders and were officially launched on 19 July 2018 in the context of the Second Call for Proposals issued by the Foundation.

Madam Speaker, the revised guidelines are also available on the website of the Foundation.

However, with your permission and for the benefit of the House, I am tabling the document “Policy and Guidelines on Funding”, which contains the revised guidelines, as well as the accompanying document “Social Inclusion, Equity and Sustainable Development - A Framework for Action”, launched by the Foundation in July 2018 in the context of its Second Call for Proposals. Thank you.

Mr Rughoobur: Thank you, Madam Speaker. I find that the hon. Minister has replied to both questions together. I hope that I will get some time for my supplementary questions, Madam Speaker.

My first supplementary question to the hon. Minister relates to the delay that has been accumulated for the second call. In terms of the second call, there have been some protests from NGOs that the Foundation is taking too much time to approve the funds. Maybe the hon. Minister can shed some light on why this delay for the second call.

Mr Wong Yen Cheong: Madam Speaker, as far as the information is concerned on the date for proposal, there has been no delay for the disbursement. I do not have the information of delay.

Madam Speaker: Hon. Rughoobur!

Mr Rughoobur: I mean there are delays for the processing of the second call. Anyway! In regard to the disbursement of funds from the list of disbursements that have been effected to the first list of NGOs, there is one of the NGOs to which almost Rs7.7 m. has been disbursed, which is, G. A. Mascareignes. May I know from the hon. Minister, as at date, what is the total amount that has been disbursed - Rs7.7 m. have been approved - and what has been the mechanism put in place to specifically monitor that NGO?

Mr Wong Yen Cheong: Madam Speaker, this is a very specific question about one NGO, but there are like 400 calls for proposals that have been coming to the Foundation and I do not have the specific answer. If the hon. Member will come with a specific question, I will be happy to reply.

Madam Speaker: Yes, hon. Rughoobur!

Mr Rughoobur: Madam Speaker, in terms of monitoring these NGOs, once again, it is a question of looking at the Council and the Foundation. I am not blaming the hon. Minister. The number of personnel that we have today is six –

- one Development Manager;

- one Finance Manager;
- one Secretary General,
- plus three Development Managers.

Almost six to seven. How are these people managing hundreds of millions of funds that are disbursed to these NGOs? Can I make a suggestion? Will the hon. hon. Minister look into this whole issue of monitoring...

Madam Speaker: Your question is of excessive length, hon. Rughoobur! Can you please be more accurate and concise in asking your question?

Mr Rughoobur: May I ask the hon. Minister to please look into this problem of resources for the monitoring of these huge amounts of funds that have been disbursed by this Foundation?

Mr Wong Yen Cheong: Madam Speaker, for the first call for proposals, all the monitoring of disbursement has already been done and it has been carried out very nicely. As far as I know, from memory - I do not have the exact information here -, there are two NGOs that have not been able to implement their proposals and the funds have not been given to them.

Madam Speaker: Hon. Armance!

Mr Armance: Thank you, Madam Speaker. Madam Speaker, I have two questions: one for B/889 and one for B/890. May I go one by one?

Madam Speaker: No, I have other MPs who have asked for the floor. So, I will allow you one question so that everybody can have the right to ask questions.

Mr Armance: Thank you. I understand from the hon. Minister that he collected Rs420 m. from the MRA. May I know from him whether there has been any contribution from the Government? Because there was a budget of Rs140 m. that was earmarked in the Budget Estimates under the item 'Centrally Expenses of the Government'. May I know whether there has been any contribution from the Government?

Mr Wong Yen Cheong: Madam Speaker, may I ask the hon. Member to repeat his question slowly, please? Thank you.

Mr Armance: I want to know from the hon. Minister whether, out of the Rs420 m. he collected from the MRA, there has been any input from the Government side because Rs140 m. were earmarked in the Budget Estimates for contribution for NGOs. Or he is not aware!

Mr Wong Yen Cheong: Which amount is the hon. Member talking about? From Rs420 m...

Madam Speaker: Hon. Minister, if you do not have the reply, please say so and you can come later either with a statement or with the information.

Mr Wong Yen Cheong: Madam Speaker, maybe the hon. Member can come with his question later during the session because he has a question on the same item, I believe.

Madam Speaker: Hon. Adrien Duval!

Mr A. Duval: Madam Speaker, may we know exactly, out of the 800 NGOs that existed prior to centralising the CSR, how many have been paid in May 2018 as contribution of the NCSR?

Mr Wong Yen Cheong: There are not 800 that have been approved. We have only 400 NGOs.

(Interruptions)

Madam Speaker: The hon. Member has not understood the reply!

Mr A. Duval: The hon. Minister has not understood the question. I just want to repeat it. I will do it slowly, Madam Speaker.

Madam Speaker: Hon. Minister, can I draw your attention to the fact that you have to listen carefully to the question.

Mr A. Duval: The question was, out of the 800 NGOs that existed prior to centralising the CSR through the two Budgets of the hon. Prime Minister, how many now - there were 800 before - have been paid in May 2018?

Mr Wong Yen Cheong: 315 proposals are in respect of partnership with Non-Governmental service providers for a total value of Rs160 m. while 91 proposals received are investment for social innovation with a total amount of Rs61 m.

Mr X. L. Duval: Madam Speaker, there were 800 NGOs and 316 proposals. May I ask the hon. Minister by how many NGOs and what has happened to the 500 or 600 NGOs which existed? Has he cared to find out whether they have been closed down, *en faillite*, and what have they done? What has happened to these NGOs? Can he understand?

Mr Wong Yen Cheong: Even on the first call for proposal, there were not 800; there were only 400 something NGOs that came for the call for proposals. Out of them, 350

proposals, as I have just said, are in respect with our partnership with Non-Governmental service providers.

Madam Speaker: Hon. Rughoobur!

Mr Rughoobur: Thank you, Madam Speaker. I have got one supplementary only on the guidelines. In the list of guidelines, the list of priority areas, may I make a request to the hon. Minister to please look into the possibility of also including the fight against proliferation of synthetic and other forms of drugs and rehabilitation as well? Because I do not see that in the guidelines.

Mr Wong Yen Cheong: Madam Speaker, when the hon. Member will take cognizance of the list that I have given, he will find out that it is already inside.

Madam Speaker: Hon. Abbas Mamode!

Mr Abbas Mamode: I am made to understand from the reply of the hon. Minister that disbursement of funds have not been delayed. Can the hon. Minister inquire into the case of those specialised in handicap? I know a school in Port Louis, namely Century, which is specialised in handicap, and yet they have not received any funds and disbursement is still being awaited. Because this is creating many difficulties in running the Centre.

Mr Wong Yen Cheong: Madam Speaker, as I replied earlier, when there is a specific question about one NGO, I will not know personally; keep it in memory. I do not have the answer with me.

CORPORATE SOCIAL RESPONSIBILITY - GUIDELINES

(No. B/890) Mr S. Rughoobur (Second Member for Grand' Baie & Poudre d'Or) asked the Minister of Social Integration and Economic Empowerment whether, in regard to the Corporate Social Responsibility, he will state if consideration will be given for a review of the Guidelines applicable in relation thereto.

(Vide Reply to PQ B/889)

Madam Speaker: I suspend the sitting for one and a half hour!

At 1.00 p.m., the sitting was suspended.

On resuming at 2.34 p.m. with Madam Speaker in the Chair.

Madam Speaker: Hon. Rughoobur!

**NATIONAL EMPOWERMENT FOUNDATION - LOW COST HOUSING UNITS -
FUNDS DISBURSED**

(No. B/891) Mr S. Rughoobur (Second Member for Grand' Baie & Poudre d'Or) asked the Minister of Social Integration and Economic Empowerment whether, in regard to the National Empowerment Foundation, he will, for the benefit of the House, obtain therefrom, information as to the quantum of funds disbursed for the construction of low cost housing units for eligible applicants, since January 2015 to date.

Mr Wong Yen Cheong: Madam Speaker, I am informed by the National Empowerment Foundation that since January 2015 to date, an amount of Rs116,531,333.89 has been disbursed in Mauritius and Rodrigues for the construction of low cost housing units for eligible applicants.

Madam Speaker: Hon. Rughoobur!

Mr Rughoobur: Madam Speaker, let me thank the hon. Minister for his reply. There was a tender launched in 2016 for the construction of 140 housing units for those having a plot of land. May I know from the hon. Minister whether this tender has been awarded and how many housing units have been constructed to date?

Mr Wong Yen Cheong: Following tenders launched in October 2016 and April 2017, the first batch of 126 fully concrete housing units is under construction, of which 50 units have already been handed over to beneficiaries. Construction works on 40 housing units are expected to be completed by end of December 2018, while the remaining 36 housing units will be completed by end of February 2019.

Mr Rughoobur: May I know from the hon. Minister what was the date for the handing over of those housing units as per the tender documents?

Mr Wong Yen Cheong: We have started, as I already answered, Madam Speaker. We are doing it in batch depending on the region. There were two regions that were not compliant to the tenders and were re-launched, like Port Louis, Pamplemousses and Plaine Wilhems. Everything is being taken care of. As I already mentioned, construction works will end completely by February 2019.

Madam Speaker: Hon. Rughoobur!

Mr Rughoobur: Thank you, Madam Speaker. For those who do not have a plot of land, we have a second type of project for low cost housing units, 10% of NHDC houses. As

per the report of NEF 2017, 125 units were to be allocated in this batch. May I know from the hon. Minister what is the number that has been allocated now or will be allocated in the days to come?

Mr Wong Yen Cheong: We will finish the project by February 2019. We will hand it over by 2019.

Madam Speaker: Hon. Baboo!

Mr Baboo: Can the hon. Minister inform the House of the eligibility criteria for the construction or obtention of a low cost housing unit?

Mr Wong Yen Cheong: First of all, they have to be SRM registered. Secondly, they need to have a plot of land, which means they are owners or they are having a permission that is duly signed by the notary that allows them to construct a house, then the NEF will construct the house.

Mr Rughoobur: Madam Speaker, I have a last supplementary. There was a remark in the last report of the Director of Audit since NEF is responsible for the construction of these housing units. I will say it very quickly, Madam Speaker -

“The absence of regular reports from the NEF could indicate that the Ministry was not adequately monitoring the activities of the NEF (...).”

May I make a request to the hon. Minister to please have a look at this monitoring issue at the level of his Ministry, so that there is better effectiveness at the level of the NEF?

Mr Wong Yen Cheong: Madam Speaker, I personally sometimes go for the monitoring, but if this is the case, I will look into it.

Madam Speaker: Hon. Armance, last question!

Mr Armance: Thank you, Madam Speaker. I understand that a sum of Rs116 m. was spent since 2015. In the last Budget, there was an amount of Rs80 m. allocated for the construction of social housing. I would like to know from the hon. Minister how many social housing units have been constructed since the last four months and the amount spent?

Mr Wong Yen Cheong: Madam Speaker, I have already given the total amount. For the specific, I will table the answer in the Library.

Madam Speaker: Hon. Rughoobur!

**NATIONAL EMPOWERMENT FOUNDATION - SCHOOL MATERIALS -
DISTRBUTION**

(No. B/892) Mr S. Rughoobur (Second Member for Grand’Baie & Poudre d’Or) asked the Minister of Social Security, National Solidarity, and Environment and Sustainable Development whether, in regard to the National Empowerment Foundation, he will, for the benefit of the House, obtain therefrom, information as to the value of the school materials and uniforms distributed for the year 2018, indicating the criteria for the selection of the beneficiaries thereof.

The Minister of Social Integration and Economic Empowerment (Mr A. Wong Yen Cheong): Madam Speaker, for academic year 2018, an amount of Rs33,688,808 has been disbursed on the provision of school materials for some 18,302 children attending pre-primary, primary, pre-vocational and secondary schools for both Mauritius and Rodrigues.

Madam Speaker: Hon. Rughoobur!

Mr Rughoobur: Thank you, Madam Speaker. I have only one supplementary. Will the hon. Minister kindly ensure that at the level of the NEF, whether it is for school materials or the series of support that they are giving to those in absolute poverty, that there is at least some sort of mechanism to communicate to those people in the different *poches de pauvreté*? May I make a request to the hon. Minister to please look into this issue of communication?

Mr Wong Yen Cheong: Madam Speaker, I will look into it.

Madam Speaker: Hon. Members, so as not to lose the time of the House, following the question that has been asked by hon. Rughoobur, I will ask that these suggestions be made at Adjournment time in Adjournment Matters because the object of a question is to dig into something which you think has not been done properly. So, I would appeal to hon. Members regarding suggestions that they have to make to Ministers to come under Adjournment Matters. Thank you. Hon. Mrs Perraud!

Mrs Perraud: Can the hon. Minister inform the House what are the measures his Ministry is taking so that school materials and uniforms are not distributed late after school has resumed?

Mr Wong Yen Cheong: I have taken it from the proposition of hon. Rughoobur. I will look into it. Thank you.

(Interruptions)

Madam Speaker: Hon. Dr. Boolell!

Dr. Boolell: The question put by hon. Mrs Perraud, I do not know whether it is the same question which I am going to put. Very often, many eligible beneficiaries are not attended to. I would like to know from the hon. Minister whether corrective measures are taken to see to it that they obtain the materials before school starts.

Mr Wong Yen Cheong: Madam Speaker, the list of SRM beneficiaries are already with the officers and they are communicated usually by way of these people who are working on the terrain in the specific areas, but if they do not have the information, it is published already, we do publish that, we will make a communiqué. So, if anything else we can do, we will look into the matter. Last year, all the materials were being distributed in a very orderly manner and there was no criticism on the part of all the beneficiaries themselves. Most of the time, it is the people who think they are in the SRM, they can have these materials, but they do not fall in the criteria of SRM beneficiaries. Thank you.

Madam Speaker: Last question, hon. Baboo!

Mr Baboo: Can the hon. Minister inform the House whether a tender was floated for school materials and uniforms, which were retained for the supply for the year 2018?

Mr Wong Yen Cheong: Madam Speaker, there is already a question regarding same which hon. Armanca has asked at the end of this session and maybe I will answer to it when it comes to me. Thank you.

Madam Speaker: Next question, hon. Osman Mahomed!

**MINISTRY OF EDUCATION AND HUMAN RESOURCES, TERTIARY
EDUCATION AND SCIENTIFIC RESEARCH - DATA COMMUNICATIONS LTD –
CONTRACT**

(No. B/893) Mr Osman Mahomed (Third Member for Port Louis South & Port Louis Central) asked the Minister of Education and Human Resources, Tertiary Education and Scientific Research whether, in regard to the Court case lodged by her Ministry against Data Communications Ltd, she will state where matters stand, indicating if the Rs20 m. which was paid to the said company has been recouped as at to date and, if so, when and, if not, why not.

Mrs Dookun-Luchoomun: Madam Speaker, in reply to PQ B/835 of November 2015, I had informed the House that following the advice tendered by the Attorney General's

Office, the contract with Data Communications Ltd for the supply of 23,400 digital tablets in respect of Form IV students in 2014 was terminated by my Ministry for failure of the contractor to deliver the number of tablets requested by the prescribed delivery time as well as for failure to extend its bank guarantee and performance security.

My Ministry accordingly requested Data Communications Ltd to refund the amount of Rs21,700,224 representing advanced payment, 20% of the contract value, and Rs10,850,112 representing performance security respectively.

My Ministry requested DCL by way of reminders dated 24 July, 10 September and 05 October 2015 to refund its advance payment and the performance security, but to no avail. Consequently, no refunds were made for the sums of 21.7 million and 10.85 million mentioned before.

On 04 February 2016, in view of the breach of contract by DCL, the Ministry made a request to the Procurement Policy Office for debarment of DCL for a period of five years according to Regulation 3 (d) of the Public Procurement Regulations 2009.

In March 2016, the Attorney General's Office was requested to initiate legal proceeding against DCL with a view of recouping these sums. Over and above the refund of these sums, my Ministry also made a claim for damages against DCL such that the total sum which my Ministry is claiming amounts to Rs141.2 m. The matter is being pursued by the Attorney General's Office.

Mr Osman Mahomed: Yes, thank you, Madam Speaker. This matter was also discussed in B/420 of mine sometime this year following which the Director of Data Communications Ltd went onto the air and said that the Ministry has withdrawn the case in Court against him. Is that a fact hon. Minister?

Mrs Dookun-Luchoomun: Madam Speaker, this is not true. What has happened is that we have already, on two occasions, asked the Attorney General's Office and the SLO to proceed with the claims to be made on this year.

Mr Osman Mahomed: Can I ask the hon. Minister whether following the problems that the Ministry has encountered with Data Communications Ltd, the Ministry of Education has issued any other contract to DCL, either directly through her Ministry or through some other Ministries?

Mrs Dookun-Luchoomun: The Ministry of Education has not given any other contract to DCL. I cannot talk about other Ministries but the Ministry of Education has not given any contract to DCL.

Mr Ramful: May I know from the hon. Minister at the time we are speaking now, is there any case in Court against the company?

Mrs Dookun-Luchoomun: I have just mentioned, Madam Speaker, that – I'll just give you the date – in March 2016 and on 27 September 2016, the Ministry wrote to the Solicitor General's Office to initiate legal action to claim the total amount of Rs141.2 m.

Mr Osman Mahomed: Can I take it hon. Minister that, therefore, there is no case in Court against DCL?

Mrs Dookun-Luchoomun: Madam Speaker, I have just mentioned that the Attorney General's Office is proceeding with the claims to be made against this year and there will obviously be a Court case on DCL.

CIVIL SERVICE - EMPLOYEES

(No. B/894) Mr Osman Mahomed (Third Member for Port Louis South & Port Louis Central) asked the Minister of Civil Service and Administrative Reforms whether, in regard to the public service, he will state the –

- (a) number of employees who have, since January 2015 to date –
 - (i) left same, and
 - (ii) joined same,
- (b) present number of employees thereof, and
- (c) optimum number of employees thereof for the country.

Mr Boissézon: Madam Speaker, with regard to part (a) of the question, the information is being compiled and will be laid in the Library of the Assembly.

Concerning part (b) of the question, there are 56,181 employees in the Civil Service to date.

Regarding part (c) of the question, I wish to point out that the annual manpower requirements in the different sectors of the Public Service is determined every year on the basis of human resource proposals formulated by Ministries/Departments when the Budget

exercise is carried out. These proposals, which are related to the creation of new or additional posts as well as the filling of existing vacancies, have to be in line with the strategic objectives and key performance indicators of respective Ministries and Departments. Thereafter, recommendations are made following a thorough examination of such proposals by officials of the Ministry of Finance and Economic Development and my Ministry for the funding of the required number of posts in every Budget. The funded positions are then approved by Parliament by way of Appropriation Bill and subsequently reflected in the Civil Establishment Order which establishes offices in the Public Service and determines the number of persons to be appointed in such positions as well as the salary to be attached to the respective posts. The Civil Establishment Order is then assented to by the President of the Republic and published in the Government Gazette to become effective.

I wish to add that the size of the workforce in the Public Service is not static and keeps on fluctuating taking into account the specific needs and priorities of Ministries/Departments, including the provision for new services and changes in organisational structures within Ministries/Departments, especially following the Reports of the Pay Research Bureau.

Indeed, during the last five years, the average number of employees in the Public Service has fluctuated between 52,000 and 56,000. It is foreseen that the size of the Civil Service will remain in the same range in the coming years.

Mr Osman Mahomed: Yes, thank you Madam Speaker. I heard the hon. Minister, on the news the other day, saying that we have a very efficient Civil Service. Agreed?

Can I ask the hon. Minister, how does he reconcile the fact that, in Singapore, the Public Service, Singapore Civil Service, has 84,000 officers as at 2017 for 5.6 million people, and for us in Mauritius if I add the figures that he has just mentioned with what is provided in the Budget 12,000 new recruits; we have three times more civil servants per capita in Mauritius than in Singapore. Can I ask the hon. Minister how does he reconcile this fact with a very efficient Civil Service?

Mr Boissézon: Madam Speaker, I cannot answer for Singapore, but as I told you in my answer, is that the request for staffing in the various Ministries and Departments are made by those Departments and Ministries and we work hard with them during Budget preparation and afterwards, as I said, recommendations are made following a thorough examination of such proposal by officials of my Ministry and MOFED.

Madam Speaker: Hon. Baloomoody!

Mr Baloomoody: Thank you Madam Speaker. The hon. Minister just mentioned that he is compiling a list of all those who have joined the Civil Service. While compiling the list, can the hon. Minister give us the list of those who are employed directly by the PSC and those who are employed by delegated powers given to various Ministries?

Mr Boissézon: Madam Speaker, in fact, I will give you for both delegated powers and entry level.

Mr Osman Mahomed: Can I ask the hon. Minister whether there is an overarching Master Plan for the Civil Service recruitment, or does the Government base itself only - if I may quote it this way - on the shopping list of Ministries. With the massive recruitment of MSOs that have recently occurred, the Minister will know there are MSOs who have been designated to their own Ministries, but do not even have desk not even office to work.

Madam Speaker: Hon. Osman Mahomed, I have several times stated that you should not make statement at Question Time.

Mr Osman Mahomed: Okay.

Madam Speaker: Question Time should not be a pretext for debate, so you should be very accurate and coinciding your questions.

Mr Osman Mahomed: Thank you Madam. Is the hon. Minister aware that the new MSOs, who have been recruited, go the Ministries where they are supposed to be posted in. They don't have an office, they don't have a desk and they come as a surprise to the Ministries that MSOs are coming to work for them.

Mr Boissézon: Madam Speaker, I don't understand the question because every day we have appeals from the various Ministries to fill vacancies.

Madam Speaker: Hon. Ms Sewocksingh!

Ms Sewocksingh: Can the hon. Minister indicate the House the number of employees on establishment and the number of employees who are on contract please or it may be compile.

Mr Boissézon: Madam Speaker, in fact, I can give the hon. Member information about all the employees on the Civil Establishment Order. If the hon. Member comes with a

specific question, then I shall be able to compile the number of employees who are working on contracts.

Madam Speaker: Last question, hon. Osman Mahomed!

Mr Osman Mahomed: Is the hon. Minister aware that certain employees, now working in the private sectors, are being requested to join on the next day after they receive their letter from PSC thereby causing disturbances in the private sector where they are working...

Madam Speaker: No, I will not allow this question, hon. Osman Mahomed. This question does not arise from the main question. Next question!

(Interruptions)

Mr Osman Mahomed: Can I refine my question?

Madam Speaker: I said next question.

SIGNAL MOUNTAIN HEALTH TRACK - ROCKFALL CONTINGENCY PLAN

(No. B/895) Mr Osman Mahomed (Third Member for Port Louis South & Port Louis Central) asked the Minister of Social Security, National Solidarity, and Environment and Sustainable Development whether, in regard to the Signal Mountain, he will state the number of times, the dates and the reasons why rocks have reportedly fallen therefrom onto the health tract found thereat, indicating –

- (a) the mitigation measures taken in relation thereto;
- (b) if the technical report in relation thereto will be tabled, and
- (c) the expected date of installation of the Solar Street Lighting System along the health track and coming into operation thereof.

Mr Sinatambou: Madam Speaker, the Signal Mountain health tract formally opened to the general public is A tarred track of 6.6 metres wide and about 3 kilometres long with A 300m elevation. It is also used by authorised agencies such as the Mauritius Broadcasting Corporation, the Police Communications Branch, Mauritius Telecom, and other service providers having antennas and equipment at its summit.

I am informed that, on the 04 October 2015, during a routine check by officers of my Ministry, it was observed that some rocks had fallen along the health track. This was reported

to the Land Slide Management Unit of the Ministry of Public Infrastructure and Land Transport, and the latter carried out an investigation on the 06 October 2015.

However, prior to that event, officers of my Ministry had observed rocks of smaller sizes on the health track on several occasions especially during or after rainfall events.

Being given the extent of the affected site, preliminary surveys were undertaken by engineers from the Land Slide Management Unit and the Special Mobile Force as well as experts from the Japan International Corporation Agency to evaluate the risk in the affected areas and to propose mitigation measures. A preliminary report was received from the Land Slide Management Unit on 09 October 2015 and the falling of rock debris on the health track was attributed to failure of part of the vertical earth cut along the road edge and also to weathering.

As an immediate measure, it was recommended that access to the health track be closed to the public whenever 15 millimetres of rainfall is recorded in the region. A subsequent visit was carried out on the 26 October 2015 by representatives of different authorities. Subsequently, a report was submitted and a number of immediate measures were implemented based on recommendations in the report as follows –

- (i) the closure of access to the health track whenever rainfall exceeds 50 millimetres or upon observations by officers of my Ministry;
- (ii) the affixing of warning signs along critical segments of the track and information boards on the risk of rock fall.
- (iii) sensitisation of users of the health track on potential risks and safety measures through communiques, and
- (iv) regular monitoring of the site by officers of my Ministry.

Furthermore, a Rockfall Contingency Plan was developed by the National Disaster Risk Reduction and Management Centre in December 2017 with other stakeholders for the closure and opening of the health track in case of strong winds, heavy rainfalls, cyclones, and risks of rockfall observed by the authorities or the public.

Madam Speaker, following adverse weather conditions in the aftermath of the severe tropical storm Berguita and heavy rainfall events during the months of January and February 2018 respectively, site inspections were carried out, and debris flows and rockfalls were

observed at several places along the track. It was found that the slopes had been affected by soil erosion and also that the tract had signs of subsidence at many places.

Furthermore, longitude in all cracks were observed at some locations in the asphaltic concrete of the track. The Ministry of Public Infrastructure and Land Transport further opined that from a civil engineering point of view, it is reasonably believed that the level of risks of rockfall is high as many boulders are exposed with their base partially eroded. Accordingly, the health tract has had to be closed for public safety.

As regards part (b) of the question, I have to liaise with my colleague of the Ministry of Public Infrastructure to see whether the report can be tabled.

With regard to part (c) of the question, the solar street lighting project originally envisaged at the Signal Mountain health tract has been put on hold for the time being.

Madam Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: Thank you Madam Speaker. The original reply is almost a technical report in itself, very well explained. Can I ask the hon. Minister, whether he has been to the site because my question is as follows: if I understand joggers and those who go there to walk are not supposed to go there on certain occasions; cars are supposed to be permanently not parked in the parking lots. So, can I ask the hon. Minister what sense does he make of the fact that joggers, who are more exposed - because I am going to table the photos you can have an idea - can walk at any time except during rainfalls whereas cars are not supposed to be parked there permanently, thereby causing havoc in the vicinity because people still go there to jog and park their cars along the road side.

Mr Sinatambou: I would like to stress that the health track has been closed both to joggers and car users. In fact, I just received a message, Madam Speaker, from the Officer-in-Charge of the National Disaster Risk Reduction and Management Centre at 14:09 telling me that during a site visit today, a rockfall has again been reported and the rock has broken the metal barriers. So, as far as I am concerned, it is imperative that the health track remains closed, at least for the time being.

Mr Osman Mahomed: This is not what I know because people write to me telling me that they are able to jog there, anyway. From the photos that I have just tabled...

Mr Sinatambou: Can I see the photo?

Mr Osman Mahomed: There are dwelling units there which are almost adjacent to the car park. Can I ask the hon. Minister whether in the report that he has or a reply that he has, the housing units are also exposed or are they not exposed? Because they are a stone throw away distance from the car park.

Mr Sinatambou: Without trying to play on words, as you say, they are a stone throw, not a stone fall. So, as far as I am concerned, what I will do, I will ask the members from the Disaster Centre to carry out a site visit to ensure that there is no threat to the housing units next door.

Madam Speaker: Hon. Jahangeer!

Mr Jahangeer: Thank you, Madam Speaker. Being a user of the track myself, I am very surprised. Is the hon. Minister aware of the traffic jam caused by the closure of the car park in that area between 4 o'clock to 6 o'clock? And also between the park car and the foot of the mountain, you have a canal of 3m wide and the hon. Minister just mentioned only a small stone fell down, so, why the car park is not open?

Madam Speaker: The Minister has just explained in details.

(Interruptions)

Mr Sinatambou: Madam Speaker, I would like the hon. Members on both sides of the House to, please, bear with me. According to the Ministry of Public Infrastructure and Land Transport, from a civil engineering point of view, it is reasonably believed that the level of risk of rock fall is high, as many boulders are exposed with their base partially eroded. That is why both the car park and the health track have been closed.

Madam Speaker: Last question, hon. Bhagwan!

Mr Bhagwan: Madam Speaker, that health track was done when I was Minister of Environment. It is the most popular one in Mauritius, not only used by the people residing in Port Louis, but even by professionals of the Civil Service. Being given that there is a threat, landslide or rock falling, does not the hon. Minister think that it would be proper for his Ministry, for the unit responsible for calamities, at least to do some PR exercise - using the MBC/TV for proper use instead of doing propaganda to advertise to show people that there is a risk there - for the inhabitants of Port Louis and also those using it at their own risks?

Mr Sinatambou: I said again in my reply that warning signs along critical segments of the track and information boards have been actually put up, sensitisation of users on the

health track and communiqués have actually been done. In fact, I should add, in view of the popularity of the site, we are actually considering carrying out surveys to identify the unstable boulders to be removed and to try and see whether purging works can be done and whether it can become use-worthy. At the moment, I must insist for the safety of the people of this country, of the users of the track, that health track has to be closed.

Madam Speaker: Next question, hon. Jahangeer!

MAURITIAN WAVE ENERGY RESOURCE - STUDY

(No. B/896) **Mr B. Jahangeer (Third Member for Rivière des Anguilles & Souillac)** asked the Minister of Technology, Communication and Innovation whether, in regard to the implementation of a pilot project for the conversion of wave energy into electricity at Gris Gris/Souillac, he will state where matters stand.

Mr Sawmynaden: Madam Speaker, I am informed by the Mauritius Research Council which falls under the aegis of my Ministry, has, in collaboration with the Government of Australia, the Carnegie Wave Energy Ltd of Australia and the University of Western Australia, led a study to assess the Mauritian wave energy resource and to identify a preferred site for the setting up of a commercial wave energy plant.

The study was carried out from February 2016 to August 2017 to determine the wave resources around the island of Mauritius to identify priority sites for commercial wave energy device trials. A wave modelling exercise, using the past 10 years of hourly satellite wind and wave data was conducted. Wave contour maps, indicating the energy potential, for Mauritius and Rodrigues were thus developed.

Following the study, a wave monitoring buoy was deployed in Souillac to collect actual onsite data for wave modelling with the technical support and collaboration of the National Coast Guard and the Mauritius Meteorological Services. Unfortunately, the equipment stayed only 10 months and thereafter, it was broken and carried away by the waves. Despite all efforts made by the National Coast Guard, it could not be recovered.

Madam Speaker: Hon. Osman Mahomed!

Mr Osman Mahomed: Can I ask the hon. Minister whether he is aware that our neighbour, Reunion Island, is currently studying for wave technologies? And that the problem there is not the technology itself but whether the technologies will eventually make

commercial sense because if you want to use electricity from wave, it has to be commercially viable.

Madam Speaker: Do not make statements, hon. Osman Mahomed! Your question is clear. Allow the Minister to reply.

Mr Sawmynaden: I am not aware what is happening in Reunion Island, but this is the answer that I gave for the question of hon. Jahangeer.

Madam Speaker: Hon. Jahangeer!

Mr Jahangeer: Thank you, Madam Speaker. Can the hon. Minister inform us if the project was a success and whether we collect electricity from the project?

Mr Sawmynaden: I am informed that when the buoy was placed there, they did collect the data, but the thing is that the equipment itself got damaged and it was taken away. It was a project which was done with Carnegie, an Australian University. Now, the Mauritius Research Council is working with them and see what is the next step forward.

Madam Speaker: Next question, hon. Abbas Mamode!

**MINISTRY OF HEALTH AND QUALITY OF LIFE - SPECIALISTS/SENIOR
SPECIALISTS – CONTRACT EMPLOYMENT**

(No. B/897) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East) asked the Minister of Health and Quality of Life whether, in regard to the specialists/senior specialists, he will –

- (a) give a list thereof employed on a contractual basis, indicating in each case the –
 - (i) specialty field;
 - (ii) terms and conditions of contract of employment, and
 - (iii) reasons for the employment thereof on contract, and
- (b) state the additional number thereof his Ministry proposes to employ on contract, indicating the –
 - (i) specialty field, and
 - (ii) reasons for the employment thereof on contract.

Dr. Husnoo: Madam Speaker, as regards part (a) of the question, with your permission, I am tabling a document providing detailed information requested by the hon. Member.

As regards part (b), I wish to inform the House that due to scarcity of qualified Mauritian candidate in the field of obstetrics and gynaecology, arrangements are being made to employ a specialist from India and/or Pakistan on contract.

Mr Abbas Mamode: Prior to the recruitment on contract, can the hon. Minister inform the House whether there has been a study to employ doctors in different specialities? For example, we have, right now, a rise in cancer and diabetes, so, on contract, has there been a study to employ doctors on contract concerning speciality fields?

Dr. Husnoo: These doctors who are employed are in specific fields where there was a shortage. I have circulated the list. There was a shortage in that particular field, that is why they were taken on contract.

Madam Speaker: Hon. Abbas Mamode!

Mr Abbas Mamode: Can the hon. Minister inform the House, since there is a shortage, whether these doctors will be employed eventually afterwards without contract, that is, on employment basis?

Dr. Husnoo: There were five doctors who were taken on contract. We took them because there is nobody with this qualification in service. This is why we have to take these doctors on contract.

Mr Abbas Mamode: So, there is the possibility of these doctors being employed permanently afterwards?

Dr. Husnoo: I mean that would depend on their age obviously. If they are over the age of 45, obviously, they won't be able to be employed by the Public Service Commission.

Madam Speaker: Hon. Leopold!

Mr Leopold: Thank you, Madam Speaker. My question is with regard to the recruitment of specialists and whether there is any specialist with no practising experience, post qualification? And if yes, what are the measures your Ministry is taking to make sure that there is such practice in the hospital of the Republic of Mauritius?

Dr. Husnoo: Madam Speaker, most specialists will have practical experience. I find it difficult to say that the specialists do not have practical experience. But anyway, when the doctor comes here, when they start working in the service, normally they are supervised by the senior as well.

Madam Speaker: Hon. Dr. Boolell!

Dr. Boolell: Can I impress upon the Minister to make the package more attractive to attract Mauritians who are working overseas? If there is a shortage of skilled specialists in certain areas, I am sure there are many Mauritians working overseas, who would be willing to come and work in Mauritius.

Dr. Husnoo: I completely agree with the hon. Member. That is what we have done. We have a few doctors who were working in UK and now they have come to work in Mauritius.

Madam Speaker: Next question, hon. Abbas Mamode!

HOSPITALS- REGIONAL HEALTH ADVISORY BOARDS - COMPOSITION

(No. B/898) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East) asked the Minister of Health and Quality of Life whether, in regard to the Regional Health Advisory Boards, he will give a list thereof in each hospital, indicating in each case the –

- (a) composition thereof, and
- (b) terms and conditions of appointment thereof, including, the salaries, allowances and fringe benefits drawn by the members thereof and duties assigned thereto.

Dr. Husnoo: Madam Speaker, with your kind permission, I am tabling a document providing detailed information requested by the hon. Member.

Mr Abbas Mamode: I want to know the main duties of these persons who, I suppose, have been nominated by the hon. Minister of Health. What are their duties?

Dr. Husnoo: I mean, the duties of the Chairperson and the members of the Board are

-

- 1) to propose measures and activities to raise consciousness to combat the burden of diseases so that the residents of the different health areas may enjoy a sound health;
- 2) to oversee the implementation of health policy and health programme with a view to improve the health status of the residents in the respective health region;

- 3) to advise the Regional Health Director on the health needs of the population in the region and the performance of the health service and their quality;
- 4) to advise on the effectiveness and efficiency of the management of the health service in the region;
- 5) to consult relevant organisations in the region and local people;
- 6) to encourage the involvement with the health service development and to promote improvement in health and health service to meet the needs of the local people;
- 7) to oversee the implementation of health policies and the national priority programme in the region,
- 8) to promote activities geared towards the welfare of patients and their families;
- 9) to promote the occupational health, welfare, security and quality of life of health personnel in the region, and
- 10) to organise and foster health activities in the region, for example, for NCDs and blood donation campaign.

Mr Abbas Mamode: Can the hon. Minister assure the House that these Chairpersons or members of these Boards do not interfere in the day-to-day running of the different hospitals?

Dr. Husnoo: Well, they do not want, but if they have any complaint from the public, they have to contact the management to help. That is their job.

Madam Speaker: The Table has been advised that PQ B/903 has been withdrawn. Next question, hon. Abbas Mamode!

GOVERNMENT MEDICAL INSURANCE SCHEME - IMPLEMENTATION

(No. B/899) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East) asked the Minister of Civil Service and Administrative Reforms whether, in regard to the Government Medical Insurance Scheme, he will state if same has been implemented and –

- (a) if so, since when, indicating the -
 - (i) terms and conditions thereof;
 - (ii) selected insurance company, indicating the procurement method used for the selection thereof, and

- (iii) total amount earmarked for the 50% Government contribution, indicating if same will be done through check-off or debited from the passage benefits of the employees, and
- (b) if not, why not, indicating if the civil servants will be refunded same with effect from January 2017.

Mr Boissézon: Madam Speaker, I wish to highlight that the introduction of a Government Medical Insurance Scheme (GMIS) for public officers was recommended by PRB as far back as 2008. Subsequent Reports of PRB in 2013 and 2016 have maintained that this scheme be implemented with a view, among others -

- (a) to provide a healthy workforce in the public service, and
- (b) allow public officers to have access to a wide array of medical high-tech facilities among others.

In this connection, my Ministry has had several working sessions with representatives of stakeholders concerned, including the Ministry of Finance and Economic Development and the Procurement Policy Office to discuss on the modalities for the implementation of such a scheme. Subsequently, the Ministry of Finance and Economic Development gave its clearance for the scheme to be on a cost sharing basis, whereby Government's contribution would be 50% to match the employee's contribution of 50%.

I wish to add that since June 2016, my Ministry has been initiating actions to procure the services of a Consultant to design and work out a general framework for the implementation of the scheme on the basis of which bids could be invited. As such, three tender exercises have been carried out so far, but none has been successful due to non-compliance with mandatory requirements of the bidding documents, namely –

- (i) lack of sufficient number of responsive bids;
- (ii) lack of minimum of five years' experience in the management of medical schemes for large organisations, and
- (iii) non-filling of standard bidding forms, among others.

It has to be admitted that the implementation of the GMIS has been taking more time than expected due to the complex nature of the scheme and the size of the Civil Service and the inadequate response to tendering exercises. The three aborted procurement exercises for consultancy have shown that the scheme involves a number of technical issues and it would

be very important to have expertise on how to elicit the best response from the market and get a more competitive offer instead of merely relaunching the procurement exercise.

In the light of the above, my Ministry has reconsidered its strategy and has had consultation with other stakeholders such as the Ministry of Financial Services and Good Governance, the Financial Services Commission and the Procurement Policy Office. It is now proposed to adopt a new procurement procedure in line with Directive No. 25 issued under Section 7 of the Public Procurement Act with a view to secure the services of an insurance service provider for the design and implementation of the Government Medical Insurance Scheme by way of an early market engagement. This matter is still under consideration. As such, the Government Medical Insurance Scheme is yet to be implemented. In view thereof, the issues raised at parts (a) (i) and (ii) and (b) of the question do not arise.

Concerning part (a) (iii) of the question, an amount of Rs50 m. has been earmarked in the Budget for this financial year and an amount of Rs200 m. is projected yearly for Financial Years 2019/2020 and 2020/2021 as Government contribution to the scheme.

Madam Speaker: Hon. Abbas Mamode!

Mr Abbas Mamode: The Minister admitted himself in his reply that this is taking much time, and civil servants are still awaiting these measures to be implemented. Can the hon. Minister give us a time frame? I know that he has the problem of consultancy, but we do have insurance companies in Mauritius dealing with health.

Mr Boissézon: Madam Speaker, I cannot give a time frame. In fact, we have to know that Directive No. 25 allows, and I will quote: ‘As the Public Procurement Act does not prohibit public bodies to hold pre-procurement engagement with the market they may, therefore, conduct market consultation prior to inviting bids following a transparent process.’

So, we shall have market consultation. I cannot tell the time that it will take to have the consultation because we have to meet all the service providers on the market to ensure that nobody is left on the side of the road. In fact, we have already earmarked Rs50 m. for this year and we hope that very quickly we shall be in a position to launch the tender.

Mr Abbas Mamode: Can the hon. Minister assure the House that before the end of this mandate, there will be implementation of this very important measure?

Mr Boissézon: No, I cannot because it takes time to have consultation. As I said earlier, it is a process of a very complex nature and we have to learn the technical issues.

Madam Speaker: Hon. Baboo!

Mr Baboo: Thank you, Madam Speaker. Having heard the Minister addressing a lot of difficulties for implementing this medical scheme, can he inform the House why friendly countries like India, France and Singapore have not been approached to give a helping hand to implement the Government Medical Scheme Insurance?

Mr Boissézon: In fact, we had open tenders and companies from abroad could have tendered for the project.

Madam Speaker: Next question, hon. Adrien Duval!

Mr A. Duval: Thank you, Madam Speaker. With regard to the Insurance Scheme itself, will it be mandatory for employees to subscribe to it or will it be voluntary?

Mr Boissézon: As I said previously, it will be voluntary.

Madam Speaker: Next question, hon. Abbas Mamode!

REGIONAL HOSPITALS - POST MORTEM EXAMINATIONS

(No. B/900) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East) asked the Minister Health and Quality of Life whether, in regard to the post mortem examinations, he will state if consideration will be given for same to be carried out in all the regional hospitals and, if so, when and, if not, why not.

Dr. Husnoo: Madam Speaker, post mortem examinations are carried out by the Police Medical Officers who fall under the responsibility of the Commissioner of Police.

In view of the facilities available, post mortem examinations are undertaken during both weekdays and weekends at Victoria Hospital and Dr. Jeetoo Hospital.

Moreover, the Commissioner of Police has informed my Ministry that approval, in principle, has been obtained for the implementation of a modern mortuary complex at Moka with all facilities to carry out post mortem examinations.

Madam Speaker: Hon. Abbas Mamode!

Mr Abbas Mamode: Can the hon. Minister inform the House whether, after 16.00 in the evening, post mortem will be made available at Dr. Jeetoo Hospital? I am sure the hon. Minister is aware of the difficulty of the people residing in Port Louis.

Madam Speaker: I believe he is aware. Allow him to reply.

Dr. Husnoo: Actually, as I mentioned, the Ministry of Health provides these facilities, but the Police Medical Officers fall under the responsibility of the Commissioner of Police. So, we only provide the facilities.

Madam Speaker: Hon. Armance!

Mr Armance: Thank you, Madam Speaker. In light of the answer of the hon. Minister that he provides the facilities to do the post mortem examinations, I would like to ask him whether he can inform the House that at night there is no facility at all for the doctor to come and do the post mortem; even a doctor who is on call. He can reply to the phone, but there is no attendant, no facility at all from the Ministry to do the post mortem. Can he please confirm this?

Dr. Husnoo: As I said, if the doctor is coming to Dr. Jeetoo Hospital...

Mr Armance: That is not true!

Dr. Husnoo: The hon. Member asked a question. Can I answer, please?

Madam Speaker: Hon. Armance, you asked a question. Allow the Minister to reply.

Dr. Husnoo: If the Police Medical Officer is coming to Dr. Jeetoo Hospital to do the post mortem, we will provide the attendant. It is a fact. We have attendants who are on call. The hon. Member wants to believe it or not, that is his problem. But this is the answer.

Madam Speaker: Hon. Leopold!

Mr Leopold: Thank you, Madam Speaker. I would like to ask the hon. Minister whether post mortem examination is mandatory in cases of alleged medical negligence, where death occurs.

Dr. Husnoo: Post mortem is carried out under the following conditions –

- (a) suspected cases of poisoning;
- (b) a body who is brought in dead at the hospital;
- (c) in case of foul play;
- (d) if there is medical negligence, and
- (e) at the request of the treating doctor.

Madam Speaker: Hon. Baboo, last question!

Mr Baboo: Can the hon. Minister inform the House of the possibility of increasing the facilities at Victoria Hospital so that more post mortem examinations could be carried out at one time?

Dr. Husnoo: As I have just said, we have a new project which is coming at Moka, a modern mortuary complex. So, when that comes, we are going to have better facilities.

Madam Speaker: Next question, hon. Ameer Meea!

AGALEGA - AIRPORT & JETTY FACILITIES

(No. B/901) Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East) asked the Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare whether, in regard to the proposed construction of an airport and jetty facilities at Agalega, she will state where matters stand, indicating –

- (a) if the detailed project report thereof is now available and, if so, table copy thereof ;
- (b) the project cost thereof, indicating the amount of money spent as at to date, and
- (c) the expected start and completion dates thereof.

The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare (Mrs F. Jeewa Daureeawoo): Madam Speaker, the proposed construction of an airport and jetty facilities in Agalega forms part of the global Government project for the improvement of sea and air connectivity in Agalega.

When replying to PQ B/75 on 03 April 2018, I underlined the very bad condition of the runway of Agalega of 1,300 metres long and 15 metres wide, which was constructed in the year 1984 or 1985. The landing and take-off of the Dornier aircraft is at the moment a difficult exercise. I am informed that at each landing and take-off of the Dornier plane, it sustains considerable damage so much so that a decision has to be taken by the National Coast Guard to limit as far as possible flying to Agalega for urgent medical evacuations only.

In view of this and also to improve and modernise air connectivity in Agalega, it has become imperative that the project for the construction of a new runway in Agalega be implemented. This new runway will largely improve not only the air connectivity between Mauritius and Agalega, but also the quality of life of the Agaleans too. Moreover, the existing

jetty in Agalega has to be improved for proper embarking and disembarking of passengers and goods.

With regard to the detailed project report, I will refer the hon. Member to the Private Notice Question addressed to the hon. Prime Minister on 16 June 2017, where mention has been made about the length of the runway, 3,000 metres, the types of aircrafts that would be able to land in Agalega and other supporting infrastructure such as –

- (a) air control buildings;
- (b) terminal buildings;
- (c) desalination plant, and
- (d) public utilities.

With regard to part (b) of the question, may I inform the House that the project is being executed by the Government of India through a grant money. The entire procurement exercise was carried out by the Government of India with no involvement of the Government of Mauritius in that process. Also, the evaluation of the tenders and the award were made by the Government of India.

With regard to part (c) of the question, I am informed by the Indian authorities of the following –

- The letter of acceptance was issued to Afcons Infrastructure Ltd on 14 September 2018.
- The contract agreement was signed on 28 September 2018 between the Government of India and Afcons Infrastructure Ltd.
- The contractor has a mobilisation period of 150 days from 14 September 2018 to 11 February 2019.
- Work is expected to start on/or about 12 February 2019 and to be completed in around two years.

Madam Speaker: Hon. Ameer Meea!

Mr Ameer Meea: Madam Speaker, answering a question on Agalega put by myself in April 2017, the then hon. Minister for Agalega stated that in terms of assistance, a grant money of about USD 18 million would be received as grant from India for the construction of the jetty and the air strip. Therefore, can I ask the hon. Vice-Prime Minister whether this sum is the total cost of the project for both the airstrip and the jetty or the Government of Mauritius would have to add on this amount? Because to my calculation, USD 18 million will be approximately Rs630 m.

Mrs Jeewa-Daureeawoo: At this stage, I am not in a position to state whether the Mauritian Government will have to top up on this amount, but we will see how the project goes.

Mr Ameer Meea: We understand that the Government of India in funding the project. But on our side, do we have any monitoring committee? Won't we even be aware of what is going on there? Has there been any EIA assessment for this project? I think that we should have a *droit de regard* on what is going on there.

Mrs Jeewa-Daureeawoo: Of course, Madam Speaker, we do have continuous meetings with India to see how the project is going. As far as I know, this project will be exempted from the requirements of an EIA licence. As per hon. Minister Etienne Sinatambou, they will have to submit an EIA Report.

Mr Ameer Meea: Since we do not have the DPR - Detailed Project Plan -, can I ask the hon. Vice-Prime Minister whether the project includes a terminal airport or will it be only an airstrip and also will it be a harbour or a jetty? Because we do not have all these information.

Mrs Jeewa Daureeawoo: Well, as I have mentioned there will be a terminal airport. It will be a jetty.

Madam Speaker: Hon. Mrs Selvon!

Mrs Selvon: Thank you, Madam Speaker. Can the hon. Vice-Prime Minister confirm to the House that there are militaries from India working on those two projects? Either they are or they have been working on those two projects.

Mrs Jeewa-Daureeawoo: Madam Speaker, let me just reassure hon. Members that Agalega is and will remain a Mauritian territory. This is an important project. We all agree that the airstrip and the jetty are both in very bad condition. We don't want the jetty and the airstrip to remain in poor condition, so this is one of the major projects. But whether there are militarian workers there, I don't know.

Mrs Selvon: The hon. Vice-Prime Minister has just visited Agalega, so I think she should know the answer.

Mrs Jeewa-Daureeawoo: Madam Speaker, when I visited Agalega, I did not see military there.

Madam Speaker: Leader of the Opposition!

Mr X.L. Duval: Madam Speaker, when we are talking about an airstrip, are we talking of 3-kilometre runway? There is a difference between an airstrip and a 3-kilometre runway. What are we talking about here?

Mrs Jeewa-Daureeawoo: Madam Speaker, it is a runway of 3,000 metres long.

Mr X. L. Duval: Not an airstrip! A runway for three kilometres!

(Interruptions)

Mrs Jeewa-Daureeawoo: Madam Speaker, the word which has been used is 'airstrip'. This is what has been used in the contract. So, we cannot use the word of the hon. Leader of the Opposition. This is the word which has been used.

Madam Speaker: Hon. Ms Sewocksingh!

Ms Sewocksingh: Can the hon. Vice-Prime Minister state to the House whether the airport and port facilities will be for civil use only or other purposes?

Mrs Jeewa-Daureeawoo: It will be for both.

TERRE ROUGE/VERDUN LINK ROAD - REHABILITATION

(No. B/902) Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East) asked the Minister of Public Infrastructure and Land Transport whether, in regard to the Terre Rouge/Verdun Link Road, he will, for the benefit of the House, obtain from the Road Development Authority, information as to where matters stand as to the complete rehabilitation thereof, indicating the -

- (a) scope of works thereof;
- (b) detailed cost thereof, and
- (c) expected date of coming into operation of the damaged parts thereof, indicating if the street lighting system thereat will be restored.

Mr Bodha: Madam Speaker, I wish to refer the hon. Member to the reply I made to Parliamentary Questions B/74 on 03 April 2018, B/253 on 24 April 2018, and B/641 on 17 July 2018 concerning the repairs to the embankment failure. Following occurrence of cracks on the Terre Rouge/Verdun Link Road near Valton Roundabout in January 2015, the contract

for 'Repair to Embankment on the Motorway' was awarded to Transinvest Construction Ltd on 28 March 2017.

The works started on 09 May and were contractually scheduled to be completed on 05 March 2018. However, during the execution of works in July 2017, after heavy torrential rains, new cracks appeared on the diversion road and on the slopes on the mountain.

The works had to be stopped and, consequently, on the recommendation of Prof. Manian, the Road Development Authority (RDA) enlisted the services of *CEREMA (Centre d'études et d'expertise sur les risques, l'environnement, la mobilité et l'aménagement)*, a French Public Body specialised in such types of works, to undertake the reinforcement designs.

Procurement procedures for the enlistment of a specialist Contractor for the reinforced piling works based on the design submitted by *CEREMA* have been completed.

I am informed by the RDA that the contract for executing the piling works has already been entrusted to Sinohydro Corporation on 05 September 2018. The piling contractor has already started works on 12 September 2018 under the supervision of *CEREMA* and KEC. The duration of the piling works is expected to be around 60 days provided that we have favourable weather conditions. Concurrently, the repair works to the embankment failure are ongoing and the progress so far is 52 %.

Madam Speaker, with regard to part (a) of the question, the scope of works for the repairs to the embankment failure consists of removal of all unsuitable materials to an adequate depth of 15 metres below road level and replacing same with sand, gravel and boulders.

The description of the works is as follows -

- repair of the embankment over a length of 300 metres;
- excavation works to remove the unsuitable materials;
- backfilling and reconstruction of the embankment;
- provision of drainage measures, and
- construction of the road structure and amenities.

As regards the piling works, the works comprise the construction of 180 reinforced concrete piles within the toe of the embankment over a length of 220 metres. The piles will be of one-metre diameter and will be placed in two rows in a staggered manner. The spacing between the piles in each row will be 2.5 metres and two rows will be two metres apart. The

piles will be embedded in competent material over an average depth of 30 metres below ground and, for long-term monitoring purposes, 3% of the piles will be fitted with inclinometers.

Madam Speaker, regarding part (b) of the question, I am informed by the RDA that –

- (i) the contract value for the project for the repair of the embankment failure - as I have mentioned in the past - is Rs283 m.
- (ii) the piling works will be to the tune of Rs123 m. plus a provisional sum of Rs10 m., and
- (iv) supervision of the piling works amount to Rs5.3 m. to be paid to *CEREMA* and to KEC.

Madam Speaker, as far as part (c) of the question is concerned, I am informed by the RDA that the bulk of the structural works, including the piling works and the fill will be completed by the end of December this year. The remaining works then will have to be the different layers of the road.

As far as the street lightings along the stretch of reinstatement between Valton and Ripailles is concerned, they will be restored.

Madam Speaker: Hon. Ameer Meea!

Mr Ameer Meea: Thank you, Madam Speaker. The hon. Minister just referred to PQ B/74 whereby he stated in this PQ in relation to Terre Rouge/Verdun Road, that there was an enquiry being carried out by Mr Sannasse - report on the RDA - and using his own words '*pour situer les responsabilités, la cause de ce qui s'est passé*'. Therefore, can I ask the hon. Minister whether this report is ready and can he table this report?

Mr Bodha: The report is ready, Madam Speaker, and will be provided to the RDA in the days to come.

Mr Ameer Meea: Can the hon. Minister table it?

Mr Bodha: Yes, we will table it because we will use that report for a case.

Mr Ameer Meea: Since the hon. Minister gave us the figures, may we know whether he has the total cost of the project, the initial cost, the reparation and, until now, what would be the total cost of this Terre Rouge/Verdun Road? Also, at the same time, do we have approximately a date when the Terre Rouge/ Verdun Road will be fully operational?

Mr Bodha: Well, I don't have the exact figures. What I can say, Madam Speaker, is that at the beginning, the road was supposed to cost Rs1.2 billion and then it ended up costing Rs2 billion.

As far the repair works are concerned, they will be around Rs400 m., that is, the embankment failure and then the pilling. When the road is going to be operational, once the structure, that is, the pilling and the fill is being done by December, then we will have to do the road which we think could be done within two or three months. So, we believe that around March the road will be operational fully.

Madam Speaker: Hon. Shakeel Mohamed!

Mr Mohamed: Thank you, Madam Speaker. The hon. Minister said that the report is ready. Could he inform the House of the names of the consultant, entities, experts and companies that have at least been blamed in the report for failure on their part or negligence or recklessness that has caused this *décat* in the Terre Rouge/ Verdun Link Road. At least, could he give the names?

Mr Bodha: I will not name now. What I can say is that, in fact, the biggest failure is the non-mastery of the terrain at the level of the tests, and that was Egis. So, I believe there is going to be a test; there is a case against Agis, and then, you have the constructor because the constructor was supposed to carry out its own tests before starting the construction. Anyway, once the report is going to be submitted, I am going to lay a copy on the Table of the National Assembly.

Madam Speaker: A last question, hon. Ameer Meea!

Mr Ameer Meea: Madam Speaker, just a clarification. Referring to the same PQ B/74, the hon. Minister stated in that PQ, I quote –

“It was supposed to cost Rs2 billion and it ended up costing Rs4 billion”.

But now, he just gave us the figures of Rs2.4 billion.

Mr Bodha: No, no! We are talking about the segment. You have two segments.

Mr Ameer Meea: No, I said the total cost.

Mr Bodha: Then, it will be Rs4 billion plus Rs400 m..

Mr Ameer Meea: So, Rs4.4 billion.

Mr Bodha: Yes.

Madam Speaker: Next question, hon. Ramano!

COMMISSION OF INQUIRY ON PRESCRIPTION - RECOMMENDATIONS

(No. B/903) Mr K. Ramano (Third Member for Belle Rose & Quatre Bornes) asked Minister of Housing and Lands whether, in regard to the Commission of Inquiry on Prescription, he will state if the appropriate amendments to the existing legislation will be introduced in the House to give effect to the recommendations thereof and, if so, when.

(Withdrawn)

ESTATE AGENCY AUTHORITY BILL – INTRODUCTION

(No. B/904) Mr K. Ramano (Third Member for Belle Rose & Quatre Bornes) asked the Minister of Housing and Lands whether, he will state if the introduction of an Estate Agency Authority Bill is being envisaged and, if so, give details thereof.

Mr Jhugroo: Madam Speaker, in February 2018, my Ministry has been mandated by Government to carry out consultations with relevant stakeholders on the proposed Real Estate Agents Bill. The purpose of the proposed Bill is to set professional standards for real estate agents and provide accountability and transparency in the profession.

My Ministry has set up an In-House Committee and will shortly be having consultation with all other relevant Government stakeholders, including representatives of the Ministry of Finance and Economic Development, Ministry of Industry, Commerce and Consumer Protection, Ministry of Local Government and Outer Islands, Ministry of Public Infrastructure and Land Transport, the Economic Development Board, the Valuation Office, the Mauritius Revenue Authority and the Registrar General's Office, amongst others.

Thereafter, consultations will be held with other external stakeholders, including *la Chambre des notaires*, the Professional Land Surveyors Council, the Professional Architects Council and the Estate Agents Association.

Following the extensive consultation, my Ministry will come up with appropriate recommendations and will, after Cabinet approval, issue drafting instructions to the State Law Office for the introduction of the Real Estate Agents Bill in the National Assembly. It is expected that the Bill will be ready by next year.

Madam Speaker: Hon. Ramano!

Mr Ramano: Merci, Madame la présidente. Est-ce que je peux savoir de l'honorable ministre si le projet de loi prévoit de faire provision d'un *Council* avec pouvoir disciplinaire éventuellement contre les membres qui sont appelés de faire partie de l'organisation ?

Mr Jhugroo: At this stage, Madam Speaker, I do not have any more information with regard to what the hon. Member has just mentioned.

Madam Speaker: Hon. Ramano!

Mr Ramano: Madame la présidente, dans un souci de transparence, est-ce que le ministre serait d'accord de faire circuler le projet de loi au public pour que tous les *stakeholders* puissent prendre connaissance du contenu du projet de loi éventuellement?

Mr Jhugroo: Madame la présidente, si l'honorable membre, député de l'Assemblée nationale, a des propositions à faire, il peut les faire au ministère et tout cela on peut les mettre dans le travail qu'on fait.

Madam Speaker: Next question, hon. Jhuboo!

BENITIER ISLAND – TECHNICAL COMMITTEE - RECOMMENDATIONS

(No. B/905) **Mr E. Jhuboo (Third Member for Savanne & Black River)** asked the Minister of Tourism whether, in regard to the Benitier Island, he will state where matters stand as to the elaboration of a Master Plan for the development thereof.

The Minister of Housing and Lands (Mr P. Jhugroo): Madam Speaker, with your permission, I would reply to PQ B/905.

I am informed that there is no Master Plan being elaborated for the development of the Benitier Island. However, I am informed that a Technical Committee was constituted at the level of the Ministry of Tourism to come up with proposals regarding the potential use of Ile-aux-Bénitiers. The Technical Committee has submitted its recommendations and further consultations are being carried out with the relevant stakeholders.

Madam Speaker, I wish to inform the House that there are 60 islets around Mauritius, out of which 10 are declared Nature of Forest Reserves under the control of the Ministry of Agro-Industry and Food Security. One islet namely Ile au Goyave de Chine at Poste de Flacq is leased for religious purposes and one islet namely Ilot Fortier is private property.

Twenty islets are leased by my Ministry for industrial or farming purposes. The remaining 28 islets are under the control of the Ministry of Agro-Industry and the latter

would eventually prepare an Islet Management Plan for these. This Management Plan would assess the development potential of these islets and a Master Plan would be elaborated accordingly, including the Benitier Island.

Madam Speaker: Hon. Jhuboo!

Mr Jhuboo: Thank you, Madam Speaker. Madam Speaker, according to a Press article a few weeks ago, mention was made of a Hotel Development Project in preparation on Ile-aux-Bénitiers –

« Ile-aux-Bénitiers : quel avenir ?

Le projet des chalets, exclusif à l'Ile-aux-Bénitiers, pourrait être confié à un groupe hôtelier. »

My question to the hon. Minister is whether the Government is considering the allocation of l'Ile-aux-Bénitiers to a promoter and, if yes, could we have the name of the promoter?

Mr Jhuboo: As far as I am informed and I am aware also, Madam Speaker, there is no promoter and there is no one interested with this island for any hotel development.

Madam Speaker: Hon. Jhuboo!

Mr Jhuboo: Thank you, Madam Speaker. Madam Speaker, the hon. Minister of Tourism visited the island a year and a half ago, and I participated in the cleaning campaign of l'Ile-aux-Bénitiers. I was shocked of the amount of waste on the island.

Madam Speaker: Yes, your question?

Mr Jhuboo: There is no toilet facility; there is no waste collection...

Madam Speaker: I have said, hon. Jhuboo...

Mr Jhuboo: Madam Speaker, it is an important issue.

Madam Speaker: Please! I have said several times that the object of a question is to dig for information from the Minister and not to provide information. So, can you rephrase your question in such a way as to ask information from the Minister!

Mr Jhuboo: Okay, Madam Speaker. So, my question to the hon. Minister is: when can we expect from Government a proposed detailed management programme planned for the management of l'Ile-aux-Bénitiers?

Mr Jhugroo: Madam Speaker, I mentioned earlier that there is a Committee under the aegis of my Ministry with many stakeholders. It will take the time and the Management Plan will be submitted as already works are done by all stakeholders concerned.

Madam Speaker: Hon. Bhagwan!

Mr Bhagwan: In view of the deplorable state of affairs of the Ile-aux-Bénitiers, the present status, I would not go into the details which have been made public, can the hon. Minister inform the House whether he does not consider it urgent for him as Minister and his colleague, the Minister of Agro- Industry to have an urgent site visit with all the parties and take immediate action in the interest of our tourism industry and also for Mauritians going there regularly?

Mr Jhugroo: Madam Speaker, I would like to inform my hon. friend that there has already been a decision taken by my hon. friend, the Minister of tourism and we are going to consult the Ministry of Environment and myself, we will be going for a site visit, because there has been a Technical Committee which is looking after several recommendations and we are going to do the site visit.

Dr. Boolell: Following the replies given by the hon. Minister, can we take it for granted that Ile-aux-Bénitiers will remain a nature reserve and Government will put its best endeavour to turn it into what it used to be, into its pristine environment?

Mr Jhugroo: This issue will be dealt with whenever there will prepare the Master Plan. Then we will be aware what there will be in the Master Plan with regard to Benitiers island.

Dr. Boolell: No, I want a firm reply from the Minister that it will be kept as it is as a nature reserve and Government will do its best to turn it into what it used to be into its pristine environment. Give us a firm reply!

Mr Jhugroo: Madam Speaker, it is not me who will decide, it is the Committee, which is going to look after the Master Plan, will decide and will give recommendations to the Ministry. Then, we are going to take decisions that should be taken.

Madam Speaker: Next question, hon. Jhuboo!

FISHING INDUSTRY – YELLOWFIN TUNA

(No. B/906) Mr E. Jhuboo (Third Member for Savanne & Black River) asked the Minister of Ocean Economy, Marine Resources, Fisheries and Shipping whether, in regard to

the fishing industry, he will state if there is a potential risk for a shortfall of yellowfin tuna on the market and, if so, indicate the measures taken to address same.

Mr Koonjoo: Madam Speaker, I wish to inform the House that in regard to the Fishing Industry, no potential risk for a shortfall of yellowfin tuna on the market is foreseen in this year.

I would like to highlight that a Ministerial Committee has been set up under the aegis of the Ministry of Foreign Affairs, Regional Integration and International Trade and entrusted with the responsibility to ensure, amongst others, that the supply of tuna raw material to our processing factories in Mauritius is not disrupted.

At the request of the Committee, the EU agreed that a joint meeting with the EU fishing operators in Brussels be held to discuss issues including the supply of the raw materials. The first consultation meeting between the EU fishing industry and the Indian Ocean fishing operators was held in 22 August 2018 and a second one recently on the 18 October 2018.

At the meeting, the representatives of the EU informed that they would monitor the fishing activities and quota utilisation by their fishing vessels operating in the Indian Ocean in such a way that would ensure a regular supply of raw materials to the processing plants based in Mauritius during the whole year. Besides, the local cannery is making necessary arrangements for alternative source of supply of raw materials from other countries. For example, the private sector, they are in touch with the Curaçao Island in South America.

Mr Jhuboo: Madam Speaker, the stock of yellow tuna has reached critical status and I am tabling 3 reports; the first one, *Le Rapport de la 22eme Session de La Commission des Thons de l'Océan Indien* –

« Une évaluation de l'albacore a été réalisée en 2016. Le stock est surpêché et soumis à la surpêche. »

A second Report, Madam Speaker, from yellowfin tuna fish source –

“stocks are undergoing overfishing.”

and the third, from the Wildlife Foundation, Madam Speaker, issuing a warning about the repeated failure of Member States to implement the limits agreed by the Commission. So my question to the hon. Minister is: what is done at the level of his Ministry to protect, to preserve the stock, to restrict the issuing of further fishing licences to fishing companies?

Mr Koonjoo: Madam Speaker, I just replied to the question of the hon. Member. In Mauritius, our Ministry together with the private sector, we are doing all our best and let me remind the Member that when he was - I think that you were in the Government? No?

Madam Speaker: Go ahead with your answer.

Mr Koonjoo: I mean, the last Government.

(Interruptions)

Yes, your party was there. We have been doing all our best. Every year, it is the same story. Since I became Minister in 2015, 2016, 2017 and even 2018, the same song is being sung by people outside; newspapers. And ultimately there has been no such thing as any shortage of the tuna fishing - specially the yellowfin. The Member talked about the skipjack. The craze is for the yellowfin tuna fish. What I told the House about today, it is the report given by the European Union together with Mauritian companies and the Mauritian Ministry. For the time being, I say there is none. In the past also there has never been any shortage of tuna yellow fish in Mauritius, and I do not believe that there will be. In a way, I just said that we have taken all the precautions to find a solution, in case there is any shortage of yellow tuna fish in Mauritius.

Madam Speaker: Hon. Bérenger!

Mr Bérenger: Can I ask the hon. Minister whether we have figures for the amount of tuna? We are talking about yellowfin caught in our economic zone - not in Seychelles' or Tanzania's or Madagascar's economic zone; the amount of tuna caught in our economic zone this year, last year.

Mr Koonjoo: I do not have it on me Madam Speaker, but I can assure the hon. Member. He is an old Member of the Parliament, an ex-Prime Minister, an ex-Leader of the Opposition, he knows pretty well how, in Mauritius, we do not have a large amount of tuna yellow fish in Mauritius. He should know that.

(Interruptions)

I said I do not have the figures!

(Interruptions)

Madam Speaker: Please! Hon. Koonjoo!

(Interruptions)

Hon. Koonjoo, please proceed with your reply.

Mr Koonjoo: Let me clarify one thing Madam Speaker, with your permission, and I'll give some figures. Mauritius was not affected by this catch limitation imposed by the purse seiners at the catch level of Mauritius purse seiners in 2014, and it was less than 5,000 tonnes. However, in 2017, and this I will explain, our local fishing vessels had caught 17,672 tonnes of tuna in our ocean. Yes, can I repeat? 17,672 tonnes. This the problem with the European Union. When they found that Mauritius had reaped a big harvest of tuna, they started putting themselves questions: how come that Mauritius, a small island like this, is reaping a big harvest in the ocean. That is due to the new method. I must tell you that when they took the new method, we were losing because when...

(Interruptions)

It is, yes.

Madam Speaker: Hon. Shakeel Mohamed! I will stop him when required. I do not need you to tell me.

Mr Koonjoo: Madam Speaker, the problem is that the signal was given to all countries to go on for tuna fish, specially the yellowfin tuna fish. There was a rat race and those countries with better technology were able to reap bigger harvest.

Madam Speaker: Hon. Minister, I think this was not the question that was asked by hon. Bérenger. So, I will request hon. Shakeel Mohamed for the next question.

Mr Mohamed: Thank you. There are three reports, Madam Speaker, that have been referred to by hon. Jhuboo pertaining to his question. I am here referring to another report which I have come across, which was prepared with the support of the European Commission, and it dates back to 2016. At page 4 and paragraph 20 of that Report I read: 'The tuna species targeted by the EU purse seine fleets are skipjack tuna, yellowfin and bigeye tuna. In the Indian Ocean, two of these species are not currently overfished but, one species, yellowfin, is currently overfished and overfishing is continuing. We, therefore, can conclude that the EU fleets are mainly catching fish classified as sustainable but only by a very fine margin. So, this report clearly shows that the yellowfin is at risk and clearly it is being overfished. Is the hon. Minister challenging this Report or does he believe that he has got other reports that he can table that can show that whatever he said in the three reports plus this fourth one not correct? Or maybe he is correct?'

Mr Koonjoo: Madam Speaker, I just said that according to our Report, and when I say our Report, it is the Report of the EU together with Mauritius, there is no shortage up to now.

(Interruptions)

Madam Speaker: Please!

Mr Koonjoo: I must explain Madam Speaker, with your permission, that the yellowfin tuna is the most looked about or after everywhere in the world. This is the truth everybody knows. Unfortunately, we do not have those technologies where we can, in a maximum, exploit these resources. For the time being, we do not have any, but if the hon. gentleman can give me the Report - I think they have got two reports - I will try to tally with my Report in our Ministry and we will find out the reason.

Madam Speaker: Hon. Jhuboo, last question!

Mr Jhuboo: Thank you, Madam Speaker. According to the Minister, there is no shortfall, but yet the Foreign Minister last year had to seek an exemption from the European Union to supply the local manufacturers. My question, Madam Speaker, is the hon. Minister aware of a video circulating, posted on the social media by one Mr Rampal, showing illegal transshipment of tuna under our nose? So, I would like to know from the hon. Minister what is being done at the level of his Ministry to control the looting of our resources?

Mr Koonjoo: Madam Speaker, I do not know Mr Rampal. Who is he? Is he in the authority, in the EU? I do not know, I will try to find out.

Madam Speaker: Hon. Jhuboo, next question!

NATIONAL WHOLESALE MARKET PROJECT- CONTRACT

(No. B/907) Mr E. Jhuboo (Third Member for Savanne & Black River) asked the Minister of Agro-Industry and Food Security whether, in regard to the proposed implementation of the Central Wholesale Market Project, he will state where matters stand.

Mr Seeruttun: Madam Speaker, I wish to inform the House that the approval of the Central Procurement Board has been obtained on 13 September 2018, for the contract for the construction, completion and maintenance of the National Wholesale Market at Five Ways, Belle Rive, to be awarded to Tianli Construction Co. Ltd for the total amount of Rs338,681,051.00 excluding VAT.

As at date, and in line with the provisions of the Public Procurement Act 2006, my Ministry has issued a letter of acceptance to Tianli Construction Co. Ltd on 04 October 2018, requesting it to furnish a Performance Security within a period of 28 days.

On receipt of same, the contract will be awarded to Tianli Construction Co. Ltd.

Mr Jhuboo: Madam Speaker, the hon. Minister has informed the House that the contract was awarded to Tianli. I would like to table a document, Madam Speaker, from the Ministry of Finance and Economic Development and it is in relation to the disqualification of Tianli Construction Company Ltd by the Ministry of Finance, Madam Speaker. I read the Circular ...

(Interruptions)

Madam Speaker: If you are tabling the document, please do so, so that we can see whether this document is acceptable.

Mr Jhuboo: The company has been disqualified for poor performance and extreme delays in completion of the contract awarded to the Ministry of Education and Human Resources. The second recommendation is that Tianli Construction Company Ltd does not receive any procurement contract or participate in any procurement exercise during the period of disqualification. So, my question to the hon. Minister is whether he is comfortable with the idea of allocating a contract to a company that has proven a very bad track record?

Mr Seeruttun: Well, Madam Speaker, as you are probably aware, my Ministry is not involved directly in the award of this contract. It goes through the Central Procurement Board and they have the authority to award the contract based upon the bid that they have received. Well, I cannot reply to a question that I am not party to that decision.

Dr. Boolell: Madam Speaker, the matter is very grave. How can we entrust a contract to a company which has been disqualified by one Ministry to the expense of the other Ministry? This is uncalled for.

Mr Seeruttun: Well, again, Madam Speaker, if that is the case, I am sure they have their reason why they have proceeded with that exercise of awarding the contract to that particular company.

Madam Speaker: Hon. Dr. Boolell!

Dr. Boolell: Can I ask the hon. Minister what corrective measure is going to be taken? This company has to pay a heavy fine and we have to make sure that it is going to deliver on promises made otherwise the contract would have to be rescinded.

Mr Seeruttun: Madam Speaker, the bidders have to comply with the contract they are going to sign. In any case, at the level of the Ministry, there will be a Monitoring Committee that is going to supervise the works along with the consultants who have prepared the detailed plan of that particular project and those two independent bodies are going to supervise the works and ensure that the works are being carried out in accordance with the plan it has been designed for.

Madam Speaker: Hon. Mohamed!

Mr Mohamed: On the same issue of maybe the hon. Minister not being aware, is he also not aware that this very same company, Tianli Construction Company Ltd, has in recent past received several prohibition orders delivered by the Ministry of Labour, Industrial Relations, Employment and Training, the Occupational Safety and Health Division for violation of the law, putting the lives of workers in danger, that is why there have been prohibition orders? Has this never been brought to the hon. Minister's attention?

Mr Seeruttun: Again, Madam Speaker, I have relied solely on the Central Procurement Board in the exercise of selecting the suitable bidder for that particular project. So, that is where I have been made aware of the choice of the CPB. Despite that, in the light of what I have just heard, I will carry out my own query with regard to that particular company to ensure that they are going to deliver. If not, then, we will advise otherwise.

Madam Speaker: Last question, hon. Bhagwan!

Mr Bhagwan: Can I know from the hon. Minister whether the Ministry of Public Infrastructure and Land Transport, which is normally involved in all these allocation of contracts for construction of Government buildings, has been involved in a committee somewhere with his Ministry while submitting the report to the CPB?

Mr Seeruttun: Madam Speaker, I have just been made aware of that letter which was tabled by our friend, hon. Jhuboo, with regard to the disqualification of Tianli Construction Company Ltd. It is pointed out in that letter that the disqualification period will be for one year with effect from 20 August 2015 up to 19 August 2016. So, coming up with that particular letter and saying this is not in order, I think he is misleading the House, Madam Speaker.

(Interruptions)

Madam Speaker: Next question, hon. Jhuboo!

(Interruptions)

Order please!

ORGANIC FARMING - PROMOTION

(No. B/908) Mr E. Jhuboo (Third Member for Savanne & Black River) asked the Minister of Agro-Industry and Food Security whether, in regard to the targetted production of 50% of bio vegetables by 2020, as stated in the Strategic Plan 2016, he will state if same is achievable as at presently advised.

Mr Seeruttun: Madam Speaker, the House may wish to note that contrary to traditional open field agricultural practice, organic farming is a cultivation system which requires uncontaminated soil for plantation, untreated seeds, and absolutely no use of chemicals and pesticides.

Unfortunately, in Mauritius, as everybody in this House is aware, our agriculture has so far been highly dependent on the use of chemicals and pesticides. As a consequence, practically all of our arable land are highly exposed to these products and this, Madam Speaker, I must say is a major constraint in the promotion of organic farming in our country. I also understand that it takes at least three years for such land to get cleansed and to re-establish its health before it is able to accommodate any organic cultivation.

Madam Speaker, another major constraint is resistance to change. We all know how people are difficult to change. It is indeed not an easy task to make our planters change their planting habits overnight.

Nevertheless, Madam Speaker, since 2016, my Ministry has left no stone unturned to achieve the target as set out in the Strategic Plan 2016-2020. In fact, it has initiated a series of actions which include, *inter alia* –

- (a) an extensive programme with a view to sensitising planters on the need to adopt safer agricultural practices such as Maurigap, permaculture, zero budget natural and organic farming;

- (b) setting up of a Bio Farming unit at FAREI last year with a view to providing planters with all the necessary guidance and support to facilitate their shift to organic farming;
- (c) setting up of an organic research station at Pamplemousses by FAREI to showcase organic culture;
- (d) introduction of a Bio Farming Scheme aimed at providing a package of incentives to planters with a view to motivating them to shift to organic farming. So far, 28 promoters/planters have benefitted from the scheme. This scheme was coupled with a whole gamut of incentives which include subsidies on compost, untreated seeds, bio pesticides, materials for construction of protected structures and greenhouses that reduce exposure to pest and diseases are being made available to farmers to induce them to adopt new agricultural practices;
- (e) development of Bio production protocols to facilitate planters in their production process;
- (f) setting up of a dedicated bio farming zone over an extent of 66 A at Britannia in February 2017. 10 planters have each been allocated an extent of 5A of land to produce mix bio vegetables. I am informed that the production from that zone is around 1T/month;
- (g) provision of financial assistance to planters to enable them to have their produce certified with recognised international certification bodies, and
- (h) elaboration of a 10-year National Strategic Plan on Organic Farming with the technical assistance of the FAO. The purpose of this Plan is to facilitate us in the process of shifting from conventional to organic farming.

Madam Speaker, in addition to the above, several schools, NGOs, households and even officers from the Beau Bassin Prison have been trained in organic production principles. I am informed that presently, 100 Farmers across the island are involved in bio food production over a total extent of some 96 Ha of land on a commercial scale. The main crops being grown are fruits and vegetables such as carrots, beetroot, cabbage, beans, pak choy, Chinese cabbage, cauliflower, etc. The annual production of such vegetables and fruits is around between 1,800 and 2,000T.

FAREI is also providing all technical advice and support to Velo Vert in a project called EMBEROI, which is being undertaken with the collaboration of CIRAD Reunion. The

project consists of the setting up of 20 organic farms over 20 Ha of land scattered across the country.

Madam Speaker, I must highlight that all the necessary *'encadrement'* and facilities are being given by my Ministry to motivate planters to adopt organic farming practices and to enable us achieve the target set in the Strategic Plan. But as I explained earlier, we cannot expect an immediate shift. The change is taking place but gradually. However, I am optimistic that in the years to come, agriculture in our country will surely be based on safer practices.

Madam Speaker: Hon. Jhuboo!

Mr Jhuboo: Merci, Madame la présidente L'objectif annoncé du ministre est de produire à 50% des légumes, c'est-à-dire 100,000 tonnes, selon la méthode bio. Nous avons à peu près 4,000 planteurs aujourd'hui. J'aimerais savoir du ministre combien de ces 4,000 planteurs se sont convertis à la norme MauriGAP 1, qui est la norme bio ?

Mr Seeruttun: Madame la présidente, d'abord la production annuelle des légumes produits localement tournent autour plus de 100,000 à 110,000 tonnes. Donc ce n'est pas 100,000 de la production bio. Donc, il y a en tout 8,000 planteurs actuellement à Maurice qui produisent des légumes. L'objectif c'est justement d'inciter les planteurs de shifter leur mode de pratiques culturales sortant du mode conventionnelle au mode organique.

Comme j'ai dit, c'est un *process* qui est graduel parce qu'il faut faire un vide sanitaire, les terres sous culture agricole ont été pendant des années sous l'application des pesticides et des herbicides. Il y a toujours des résidus, il faut que ces résidus soient complètement enlevés pour pouvoir aller sous l'item organique. Cela prend trois années d'après les expériences. Donc, on est en train d'encourager à travers plusieurs méthodes pour que les gens aillent dans cette direction.

Mr Jhuboo: Merci, Monsieur le ministre. Il en va de la santé publique. Donc, les chiffres publiés par votre ministère révèlent que seulement: *'The Mauritius Agricultural Certification Body is operational under the aegis of the Ministry (...) and only 8 planters over 4,000 have been MauriGAP 1 certified. (...)* Donc, il y a un réel problème avec la communauté des planteurs pour les faire changer de méthode culturale. Quels sont ces problèmes ? Pourquoi il y a tant de réticence de la part de la communauté des planteurs de passer au bio?

Mr Seeruttun: Madame la présidente, d'abord, on est passé à 73 le nombre des planteurs qui sont maintenant certifiés sous MauriGAP. Cela évolue chaque jour parce qu'il y a quand même des gens qui font des applications et c'est évalué, et c'est à partir de là qu'ils ont certifié. Pourquoi une réticence ? Parce que, bien sûr, pour changer les habitudes, cela prend du temps. Dans n'importe quel secteur, pour changer les habitudes, cela prend beaucoup de temps et, bien sûr, il y a aussi des mythes en ce qui concerne de cultiver sous condition biologique, parce que certains pensent que le rendement est moindre et que cela coûte plus cher. Donc, c'est pour cela qu'il y a une série de sessions de formation pour inculquer cette notion d'aller vers cette nouvelle pratique, c'est pour le bienfait de tout le monde éventuellement.

Madam Speaker: Hon. Ramano!

Mr Ramano: Merci, Madame la présidente. Des braves planteurs sont en train de faire de l'agriculture bio dans la région de Britannia, mais ils sont en train de subir de graves préjudices pour des cas de vol. Je demanderais au ministre de considérer la possibilité d'un financement pour les clôtures métalliques pour ces personnes qui sont en train d'investir gros, mais qui sont en train de subir de graves préjudices pour des raisons de vol.

Mr Seeruttun: Madame la présidente, il y a pas mal de support qu'on est en train d'offrir à pas seulement les planteurs de cette région, mais à travers l'île. On est venu avec plusieurs mesures dans le budget, que ce soit cette année-ci ou l'année dernière, afin de donner des facilités pour qu'ils puissent se procurer des outils afin d'éviter à ce qu'il y ait des vols, par exemple, des caméras qu'on peut installer pour pouvoir, même de loin, observer un peu ce qui se passe dans leurs champs. Donc, tout ça c'est une série de mesures, et aussi avec la police on est en train de mettre sur place un système de surveillance, parce que dans certaines régions où il y a une concentration de culture vivrière et que c'est prêt pour être récolté qui est une présence beaucoup plus permanente dans cette période où le risque de vols est beaucoup plus.

Madam Speaker: Last question hon. Dr. Boolell!

Dr. Boolell: May I ask the hon. Minister whether the services of CIRAD and other relevant research institutions have been enlisted? And also, will he give us the list of the names to whom land had been allocated for bio-farming?

Mr Seeruttun: Concernant CIRAD, j'ai mentionné, Madame la présidente, qu'il y a un projet conjointement avec Vélo Vert, CIRAD, la Chambre d'agriculture et FAREI, pour

justement travailler avec les planteurs locaux afin de promouvoir cette culture organique. On travaille aussi avec FORENA, Vélo Vert. Il y a plusieurs personnes de leur propre chef qui sont déjà dans cette pratique culturelle, je dois dire aujourd'hui.

Madam Speaker: Next question, hon. Mrs Selvon!

DOMESTIC VIOLENCE - PROTECTION ORDERS

(No. B/909) **Mrs D. Selvon (Second Member for GRNW & Port Louis West)** asked the Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare whether, in regard to domestic violence, she will state if consideration will be given for the advisability of reinforcing the legislation to curb the rising number of cases thereof, in particular, making provision for harsher sentencing and more effective prevention actions like making protection orders more severe and more readily obtainable by victims.

The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare (Mrs F. Jeewa-Daureeawoo): Madam Speaker, the protection from Domestic Violence Act was enacted in 1997. Subsequent amendments were brought therein in 2004, 2007, 2011 and 2016 to make provisions to better protect victims of domestic violence. There were major amendments brought in 2016 to reinforce the legislation and to provide for harsher penalties. The main provisions made in the amendment 2016 are –

- (a) increasing the powers of enforcement officers;
- (b) widening the definition of the term 'domestic violence' to include 'forced sexual acts';
- (c) providing that a person who does an act of domestic violence against his spouse under the same roof shall commit an offence;
- (d) empowering a Police Officer not below the rank of Assistant Superintendent to arrest a person, where following an act of domestic violence physical injury has ensued.

Regarding the increase in penalties, on a first conviction, the perpetrator is liable to a fine not exceeding Rs50,000 and to an imprisonment for a term not exceeding one year; on a second conviction, the perpetrator is liable to a fine not exceeding Rs100,000 and to an imprisonment for a term not exceeding two years, and on a third or subsequent conviction, the perpetrator is liable to imprisonment for a term not exceeding five years.

Madam Speaker, when a case of domestic violence is reported to my Ministry through the six Family Support Bureaux, immediate assistance and support is provided to the victims in terms of –

- (a) drafting of affidavits for application of court orders;
- (b) accompany victims to court on the same day;
- (c) provide psychological counselling, and
- (d) provide legal advice and legal representation at court.

Following the application made by the Ministry on behalf of the victim, in most cases, an interim Protection Order is issued on the same day by the District Magistrate, which is valid for a period of 14 days and which can be extended until the hearing of the matter. During the said period of 14 days, the offender is summoned to appear before court to put up his defense. On an average, a hearing is fixed within one month from the date of application. So, if victims cannot return to the matrimonial home for fear of further violence, the Ministry will arrange for temporary shelter. It is good to note that from 2015 to August 2018, 355 campaigns have been conducted and 15,000 persons were reached.

Madam Speaker: Hon. Minister, I am sorry to interrupt you. It is just to tell you that the question asked in regard to domestic violence concerns the advisability of reinforcing the legislation for harsher penalty. If you could please come straight to the reply to this question because we have got time limit.

Mrs Jeewa-Daureeawoo: Madam Speaker, I have already explained that the provisions of the law have been reinforced and harsher penalties are provided in our law.

Madam Speaker: Yes, hon. Mrs Selvon!

Mrs Selvon: Thank you. Est-ce-que l'honorable vice-Premier ministre est disposée à créer, comme en France, une école des parents et des éducateurs pour accompagner avec des psychologues les personnes qui font souvent de la violence conjugale ; une école qui parvient à changer positivement ces personnes ayant des dispositions violentes au sein de leur famille?

Mrs Jeewa-Daureeawoo: Madam Speaker, I think what is more important is to focus on prevention and early intervention. This is very important. The law is here. No matter what legislation is enacted, domestic violence will unfortunately still occur. So, what we need to do is a method of dealing with domestic violence which was traditionally concentrated on the victim; it has to change. That is why we are working on new measures. Rehabilitation of the perpetrator is also very important. Bringing the offender to court is part of the battle, but at

the same time we need to work with the perpetrator. We have to see the root causes of domestic violence, why is it happening, what are the causes, and why does it continue. So, domestic violence, Madam Speaker, is a national concern; it is a serious concern; it is a complex issue. It is not only a question of harshening the penalties; it is a question of looking at other aspects also.

Mrs Selvon: Thank you, but the hon. Vice-Prime Minister has not replied to my question, namely whether she would consider *une école des parents et des éducateurs*. It has not been answered. *Est-ce que l'honorable vice-Premier ministre est d'accord que la violence contre les femmes et les enfants se multiplie de plus en plus, et que cela ne peut être traité par une part-time Minister qui s'occupe de plusieurs ministères et départements à la fois?*

(Interruptions)

Mrs Jeewa-Daureeawoo: Madam Speaker, the remark of the hon. Member is neither here nor there. This is not her concern. Her remark is unwarranted, Madam Speaker. I am doing my job and I am doing what is needed to be done.

Madam Speaker: Hon. Ms Sewocksingh!

Ms Sewocksingh: Thank you, Madam Speaker. Concerning Protection Orders, can the hon. Vice-Prime Minister inform the House if Protection Orders are being issued during weekends and, if not, can she urgently look into the matter?

Mrs Jeewa-Daureeawoo: As far as I know, there were magistrates who were sitting during weekends, but if it is no more the case, I will look at it personally because, as I have said, domestic violence is of serious concern. So, this has to be treated early.

Madam Speaker: Hon. Mrs Perraud!

Mrs Perraud: Madam Speaker, concerning effective prevention actions, as mentioned in the question, I would like to ask the hon. Vice-Prime Minister what is the policy of her Ministry regarding sensitisation campaign, aggressive, constant and regular sensitisation campaign, to curve domestic violence.

Mrs Jeewa-Daureeawoo: Madam Speaker, as I have said, we have increased awareness campaigns all around the island. We are also using the *caravane de proximité* to touch women who live in very remote areas because maybe they do not have the facility to come to the Family Support Bureaux of the Ministry. So, we are also working with women

all around the island, having talks with them so that they may be aware what are the measures, what are the laws that are in place to better protect themselves.

Madam Speaker: Hon. Ganoo!

Mr Ganoo: May I ask the hon. Vice-Prime Minister this question to the effect that very often, the magistrate of the courts refrain from ordering a jail sentence because they do not want to disturb the family environment? May I also ask her whether she is aware that in other jurisdictions, persistent offenders are ordered to go to jail after working hours? They go to work, continue to look after the children and the family, they do not lose their job, but they are ordered for prison sentences after working hours. This applies in the case, of course, of persistent offenders.

Mrs Jeewa-Daureeawoo: Madam Speaker, well, it all depends on the magistrate. We are encouraging women to speak out, we are encouraging women to seek legal assistance. If the case is serious and if the magistrate has to issue the Protection Order, I do not think he will refrain from doing so.

Madam Speaker: The Table has been advised that the following PQs have been withdrawn: B/913, B/914, B/915, B/916, B/923, B/926, B/928, B/929 and B/930. Time is over!

MOTION

SUSPENSION OF S.O. 10(2)

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

The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare (Mrs F. Jeewa-Daureeawoo) rose and seconded.

Question put and agreed to.

PUBLIC BILLS

First Reading

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

- (a) *The Supplementary Appropriation (2016-2017) Bill (No. XIV of 2018)*
- (b) *The Radiation Safety and Nuclear Security Bill (No. XV of 2018)*

(c) *The Judicial and Legal Provisions (No. 2) Bill (XVI of 2018)*

Second Reading

THE CODE CIVIL MAURICIEN (AMENDMENT) BILL

(NO. XIII OF 2018)

Order for Second Reading read.

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

Madam Speaker, this Bill will amend the Code Civil Mauricien by modernising the current regime of *copropriété* and of *associations syndicales*, by introducing a new regime which is more flexible and better adapted to the realities of the local real estate sector.

Our existing regime of *copropriété* dates back to 1978 and is based on “*la loi française du 10 juillet 1965 et son décret d’application du 17 mars 1967*” which, I understand, was adopted at the time without proper consultations. It was, therefore, high time to bring reforms in view of a number of practical difficulties which were being faced and to replace the existing regime by another one which is more flexible and better adapted to the realities of the local real estate sector.

At the same time, the opportunity has been taken to –

- (a) firstly, introduce specific provisions relating to groups of *associations syndicales* with a view to ensuring the smooth administration of common areas in complex property developments. These amendments seek to give effect to what had already been announced in the Budget Speech 2017-2018. (In part (b) of the Budget Speech under the heading of ‘Other Budget Measures’ more specifically);
- (b) secondly, codify *la division en volumes* as regards *la propriété immobilière*, through a new article 552-1;
- (c) thirdly, amend article 703 by providing for new circumstances in which “*servitudes*” shall cease, and
- (d) finally, amend article 2151 by providing who shall be “*les créanciers privilégiés sur les immeubles*”.

Madam Speaker, at the outset, I wish to inform the House that I intend to move for a minor amendment at Committee Stage. The proposed minor amendment will be circulated shortly and is intended to give effect to a more flexible method of designating the category of *professionnel compétent* under article 664-13. An amendment is accordingly being brought to the proposed article 664-13 to delete certain words in the first *alinéa* and to add a third *alinéa* enabling the Attorney General, by way of regulations, to designate who shall be the “*professionnel compétent*” referred to in the first *alinéa*.

Madam Speaker, due to the length of the amendments, I do not propose to go through each and every article in the proposed Bill. Instead, I shall be highlighting the main difficulties being currently faced which necessitated legislative changes and explain those changes for the benefit of the House.

Let me start by briefly explaining the process which has led to the proposed amendments. In December 2017, after an international request for expression of interest, the services of the French consulting firm, Internot, were retained to assist in the drafting of new provisions relating to *copropriété* and *association syndicale*. In February of this year, the Economic Development Board organised consultative workshops with practitioners, lawyers, notaries and property developers on the current regime of *copropriété*. During further working sessions and workshops with stakeholders, discussions centered on the difficulties being faced due to the fact that the current regime of *copropriété* and *association syndicale* is far too complex, incoherent and too cumbersome to handle. It was thus proposed to completely reform and replace the existing regime by one having more flexibility to adjust to the realities of the local real estate context.

The Bill, accordingly, responds to this major criticism and proposes a much clearer text. New and essential sections are being proposed for small buildings of two co-owners, buildings of less than five co-owners and social buildings.

The Bill makes provision for “*les copropriétés en difficulté*” in order to avoid that they fall in “*délabrement ou insalubrité*” and introduces, *inter alia*, the notion of “*union des syndicats*”. Moreover, under article 664-32 *alinéa* 5, a co-owner who has not paid his charges is deprived from the right to vote until he has settled all his debts towards the syndic.

Madam Speaker, the second series of criticisms formulated by the practitioners concern the excessive formalism of the texts that currently govern co-ownership, namely the convening of meetings by registered letters with acknowledgment of receipt, strict deadlines

and formalism of the deliberations of the assembly and the “*syndicat des copropriétaires*”. These result in –

- (a) significant expenses, including mail charges, costs of photocopies for a syndic responsible for ensuring the respect of the formalism, and
- (b) result in unnecessary disputes, for instance, where co-owners, acting in bad faith sometimes, trying to cancel deliberations when the abovementioned formalities have not been strictly followed.

Proposals were, therefore, made to reduce the excessive formalism. To that end, Article 664-26 *alinéa* 2 provides that, henceforth, *convocation* to the general assemblies can be done by any means, including electronic means in accordance with the *règlement de copropriété*, and thus, enabling proof of the date of receipt of the convocation. Moreover, under article 664-37, the majority threshold required in the assemblies, which, in the texts currently in force, are numerous and very complicated, will now be simpler and less in number.

Madam Speaker, the third series of criticisms concern the generality and uniformity of the texts governing co-ownership and *association syndicale*. At present, the same rules apply to *copropriétés* of 2 apartments and *copropriétés* of several dozen apartments, to ordinary *copropriétés* and *copropriétés* of social housing, to a *morcellement* project of few lots and as well as to that of thousands of lots, and even apply to mixed-use developments having large common areas, several *associations syndicales* and *copropriétés*. The Bill, therefore, modulates the rules according to the size or the nature of the building.

As Members of the House will appreciate, Smart Cities have several buildings and developments, each having their own *copropriété* and different usage. There is no notion in the current law on the *association* of syndics regrouping several *copropriétés* and *associations syndicales*. It is practically impossible to have all co-owners who may exceed thousands in number in Smart Cities to assemble and vote at annual general meetings. The Bill accordingly proposes the adoption of a new regime of management of large scale developments under the “*associations foncières*”, allowing for a more suitable legal framework for the management of common areas. Under article 664-123, the *association foncière* shall be the legal entity “*ayant pour objet l’appropriation et/ou la gestion des terrains, volumes éléments et équipements visés à l’article 664-119*”.

Madam Speaker, I am sure that many hon. Members of the House will ask whether the new regime or the new provisions will apply to social housing. In that respect, I wish to draw the attention of the House to *article 664-139* which provides for special provisions, derogating from the ordinary law of the co-ownership, in the specific field of social housing. These provisions, as in the existing law, take into account the important role played in this area by the Ministry of Housing and Lands and the National Housing Development Company. The Minister responsible for the subject of housing will thus be empowered to provide, by way of regulations, for exemptions for social housing.

The Bill further provides in *article 664-32*, for each co-owner to have, in a meeting, a number of votes attached to the number of lots he owns. However, when a co-owner has a number of votes equal to or greater than half of all the votes of the co-owners, his number of votes is reduced to the sum of the votes of the other co-owners present or represented at the said meeting. This is as per the existing provision of the law. However, a new *alinéa 2* is inserted in the said article with respect to the delegation of voting rights to a representative where any co-owner may be represented by another co-owner with a special mandate remitted to the syndic. A co-owner may not receive more than 3 voting mandates unless the total of his votes and that of his principals do not exceed 20 per cent of the votes of the *syndicat*. *Alinéa 3* further provides that the syndic, his spouse, his ascendants, descendants and his agents cannot hold any voting mandate whilst, under *alinéa 4*, the transfer of voting rights between co-owners is prohibited.

Madam Speaker, currently, decisions at annual general meetings are taken by the majority in number of co-owners representing at least three-quarter of the totality of the votes for any modification of the *règlement de copropriété* or a change in purpose of the building and the construction of buildings to create new lots. Through *article 664-37*, the Bill proposes a fundamental change, bringing the majority in number of co-owners to at least two thirds of the totality of the votes.

The current *article 664-37, alinéa 2*, relating to the protection from modification of the purpose of use of private areas remains unchanged by the new *article 664-39*.

The Bill provides, in *article 664-57, alinéa 3*, read together with *article 664-35*, for the requirement of an absolute majority vote by all co-owners in the general assembly for the designation of the members of the *conseil syndical*. In addition, *article 664-61* expressly

provides for the designation of the President of the *conseil syndical* by its members. The *conseil syndical*, being an *organe de surveillance*, assists the syndic in its management.

Madam Speaker, the Bill also regulates the functions of the syndic. Under *article 664-45*, provision is made for the syndic to be insured and to hold a guarantee of refund equivalent to the amount of funds which it is called upon to handle. Moreover, its appointment shall be preceded, under pain of nullity, by a *mise en concurrence*.

Furthermore, the management of common areas in smart cities, *morcellements* and *les ensembles immobiliers* shall be carried out by an *association foncière*. Provision is made in the Bill for the *association foncière* to be endowed with a civil personality, whose object is the management of the properties referred to in *article 664-119*. These include several lots or built-up properties or properties to be developed off-plan, group of individual properties or *copropriétés*, and comprise land and common areas, including roads, networks and parkings.

As regards *association foncière*, the new *article 664-128* provides for the annual meeting of co-owners to elect, by an absolute majority of the members present or represented and getting at least 40 per cent of the total votes, for a maximum period of three years, an administrator, who may be dismissed at any time. Under *alinéa 2*, the administrator is only elected for a renewable period of one year if he is or was the developer or promoter of the project. Under *alinéas 3 et 4*, the administrator represents the *association foncière vis-à-vis* third parties, prepares its budget, regulates its expenses, recovers its debts and ensures that the co-owners conform to the *cahier des charges*. Under *alinéa 5*, he shall inform the council of members, at least on a quarterly basis, of his performance.

The Bill addresses the difficulties of the existing law as to who represents all the different *collectivités des copropriétaires*. The current law requires only the co-owners to be members of an association. The Bill now provides for the general meeting of the *association foncière* to consist of all the individual owners and the representatives of the *copropriétés* located within its perimeter. This is in relation to decisions regarding the management of common areas.

Madam Speaker, for large projects such as smart cities, the Bill also provides, at *article 664-136*, for the general meeting of the *associations foncières* (project having within its perimeter more than one *association foncière*) to consist of administrators in respect of each *association foncière*. The administrators are deemed to have all the voting rights of the

members of the *association foncière* they represent. Voting rights are granted by virtue of the *statuts* according to objective and equitable criteria.

Provision is made under *article 664-132* for a *conseil des membres de l'association foncière*, made up of an odd number of members between three to eleven, who are elected by the general assembly by the majority referred to in *article 664-130, alinéa 5*. The role of the said *conseil* is to assist and control the administrator in his management according to the terms provided for by the *statuts*. He may be assisted by experts whose remuneration is within the budget of the association. Moreover, the said *conseil* has to designate, by a simple majority, among its members, a president who convenes meetings, organises working sessions and can, at any time, convene the general assembly.

Under *article 664-122*, the provisions of the *cahier des charges* may be amended as per *article 664-37* by «*la majorité en nombre des copropriétaires représentant au moins les deux tiers de la totalité des voix.*»

Madam Speaker, the Bill makes new provisions for the regime of *copropriété* to apply immediately to all new projects by virtue of *article 664-140*. Provision is made for a moratorium for any *copropriétés* and *ensembles immobiliers* existing at the commencement of the Act to comply within a period of 5 years of its commencement. The decision of existing associations to comply with the new regime as set out in the Bill shall be made by a majority votes of co-owners present or represented, failing which, by the Judge in Chambers.

Finally, in clause 3 of the Bill, certain consequential amendments are brought to the Land (Duties and Taxes) Act and to the Registration Duty Act.

Madam Speaker, representatives of the *Chambre des Notaires* and the Professional Land Surveyors Council as well as property developers and other property management professionals have been consulted on the proposed amendments. In addition, the views of the Law Reform Commission, the Bar Council and the Law Society as well were sought.

The House will appreciate that the reform which we are bringing through the proposed amendments was long-awaited. We are replacing an outdated regime of *copropriété*, dating back to 1978, by one which is more flexible and better adapted to current realities. *Ces amendements vont, sans aucun doute, aider à redynamiser notre secteur immobilier local.*

Before I end, Madam Speaker, I would like to express my thanks to the Economic Development Board for steering these reforms and for efficiently organising the consultation

process. I would also like to thank those members of the legal profession, property developers, land surveyors and other property management professionals who participated in the workshops and working sessions organised by the EDB on this subject and for making concrete proposals in relation thereto. My thanks also go to the Law Reform Commission as well as to some individuals who have submitted comments on the proposed amendments. Last but not the least, I wish to thank the Parliamentary Counsel and law officers of my Office for their work on this Bill.

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

The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare (Mrs F. Jeewa-Daureeawoo) rose and seconded.

Madam Speaker: I suspend the sitting for half an hour.

At 4.52 p.m., the sitting was suspended.

On resuming at 5.31 p.m. with the Deputy Speaker in the Chair.

The Deputy Speaker: Hon. Baloomoody!

Mr V. Baloomoody (Third Member for GRNW & Port Louis West): Mr Deputy Speaker, Sir, we, on this side of the House, do not have much qualm with regard to that legislation. However, we have certain clarifications to ask and, at the end my speech, I shall make, at least, one recommendation with regard to the *Syndic*.

Mr Deputy Speaker, Sir, once one decides to buy a home, the next question is whether I should buy an independent house or an apartment. An apartment may be a flat in a high storey complex or a house in a commercial complex which includes residential and commercial buildings. However, it should be noted that recently with the increase cost of land and construction and most especially with the insecurity prevail now in this country when it comes to law and order, the great majority of first home owners or retired persons are opting for an apartment either in a complex or a flat. When it comes to certain complex it becomes a bit more complicated when there are both residential and commercial units.

So, when one is buying an apartment or a complex in a unit, there are different types of ownership, different ownership with regard to the part of the building. The owner will have full private ownership of the building which is a home or his home, however most of the rest of the block or residential complex is owned jointly by all the owners and this is what we

called the common part, for example, the corridors, the parking space, the stairs, etc. The management of this type of building is quite different compared to a simple family dwelling. This is why we need the *Syndic* where all the co-owners contribute to the common expense of the common part. This Syndicate or co-ownership is responsible for all its administrative operation and the common interests of the co-owners.

Mr Deputy Speaker, Sir, the question of *copropriété* has been with us since we inherited the Code Napoleon in 1804. However, since then there have been various amendments and, in the 1950s, we have, what we call, the *Code Civil Mauricien*. So, today we are dealing with a piece of legislation regarding the *Syndic* and the last time the law was amended was in 1983. This is some of the section of Article 644 which was amended. In 1983, prior to the amendment of the Code Napoleon, there was a Select Committee chaired by the then Attorney General and Minister of Justice, hon. Mrs Shirin Aumeeruddy-Cziffra. That Committee made its report with regard to various amendments of the Code Napoleon and it dealt also with the amendment with regard to the Code concerning *Syndic* and, today, we are coming with a new Article 664. We have heard from the hon. Attorney General that there had been consultation with most of the stakeholders, but we have not heard from the Attorney General what has been the outcome of this consultation. My information is although quite a lot of what was been agreed upon is in that Bill, but there are many other issues which were raised by the stakeholders which are not in the Bill. There are many important issues where there have been no agreement among the stakeholders which are not in the Bill.

As I said, Mr Deputy Speaker, Sir, in our law today Article 664-1 goes to 664-94 and today this Bill brings Article 664 to 140 subsections with different *alinéas* under each. So, I do not propose to go to each and every one as the hon. Attorney General has said in some of them there have been certain amendments and some are new. I will ask the hon. Attorney General for some clarifications on certain issues. Let me deal first to the new Article 552. The new Article 552 by inserting a new Article 552-1 which says –

« Un fonds peut faire l'objet d'une division visant à conférer à un tiers la propriété d'une partie de ce fonds situé au-dessus ou au-dessous d'une limite conventionnellement fixée. La propriété du dessus est appelée propriété superficière, celle du dessous propriété tréfoncière. »

This is an Article which is copied from the Code Civil especially the one in Québec. But there, the Code Civil Québec, this is a general one. The Code Civil of Québec goes even

further. It states what happen - at the end of the *propriété superficière* - to that property - which has been added to the existing property and there it is well mentioned -

« 1114. *La propriété superficière prend fin:*

1° *Par la réunion des qualités de tréfoncier et de superficière dans une même personne, sous réserve toutefois des droits des tiers;*

2° *Par l'avènement d'une condition résolutoire;*

3° *Par l'arrivée du terme. »*

So, this is how it ends. But what happen to the property after the expiry of the *période limitée conventionnellement fixée*? But there in Québec, they go further. The owner can either buy their rights, compensate the *tréfoncière*, *enlever les constructions, ouvrages et plantations qu'il a faits et remettre le tréfonds dans son état antérieur*. Either he removes whatever he has added to the property or the owner can buy and compensate the other party. However, if there is no agreement between the parties, Article 1118 in the Québec Code Civil –

«1118. *Le tréfoncier et le superficière qui ne s'entendent pas sur le prix et les autres conditions d'acquisition du tréfonds ou des constructions, ouvrages ou plantations, peuvent demander au tribunal de fixer le prix et les conditions d'acquisition. Le jugement vaut titre et en a tous les effets. »*

Why is this important? Because we are talking about only two people. In Mauritius especially when it comes between two members of a family, we always have that issue. They don't agree with compensation. I think it should have been better in the amendment code we are dealing today to have the procedure to be laid out once the parties or the treaty between the two parties comes to an end. Unfortunately here, there is no mention regarding what will happen after *l'expiration de la convention*.

Now, let me come to page 10, article 664–32. This is quite welcoming because there has been abuse in the past. Let us say there are four flats in a building, one owns three flats and one is to a third party, he always controls the syndic. Now, at least his share is reduced to 25%, that is, he is equal to the other partner in that syndic.

Page 14 refers to *professionnel*. It is interesting that we talk about 664-44 –

«*Les fonctions de syndic peuvent être assurées par toute personne physique ou morale, professionnelle ou non, ou bénévole. »*

Here, I have some concern. In many cases, syndic has failed because any person thinks he is qualified to be a syndic. The hon. Whip himself asked a question about the qualification of a syndic. If today, in many cases, syndic has failed because we have had non-professionals running the syndic. They are not experienced and running a syndic is a professional job. It is easy, I know many cases where the gentleman or lady who wants to be a syndic, he just canvasses some people, the majority very often do not turn up for the meeting, you get somebody who turns up with a proxy of 15 members and votes for Mr X and Mr X becomes the syndic and, unfortunately, he is not a professional.

The other side is also interesting. Most professionals who own a property in a complex are not interested to join a syndic. Either they do not have time or they do not want to be *dans le* bad book of their neighbours or co-owners because very often it is a delicate job. So, I think we should have in this law come with a definition of a syndic. I know there is resistance outside and some people do not want it. But if we want to have buildings with 25 or 30 flats or residential complex, including commercial complex on the same building, we should go for professional syndic.

Professional syndic, I will come to that later because in Canada, in Quebec especially, they just amended their law. A professional syndic will bring transparency and accountability. Today, if we go in one of these, especially the NHDC or any syndic and you ask one of the syndics: “how is it that my share is ‘X’ rupees”? He cannot answer. “How is it that you come to the figure that I should pay Rs2000 per month as syndic?” He cannot answer. He has not done the calculation. He has a done a financial account according to him. He hires who he wants to hire, carpenter of his choice, plumber of his choice, painter of his choice and then he comes with a Bill. There is no accountability and there is no pressure unless the *Assemblée Générale* puts pressure, but very often like I say the *Assemblée Générale* is just an *Assemblée* with somebody who comes with 10 or 15 proxies, gets the majority and they get their way. So, I think we should have come with something more professional when it comes to syndic, the qualification of a syndic or somebody to run a syndic.

Now, let me come to articles 664–63 to 664-65. This is interesting again, for two lots or five lots you do not have to go through a long procedure of all the documents, all the costs involved to install a syndic. But again, everywhere we asked for odd numbers to take a decision. For five it must be three; seven it must five, but what happens when it comes to two – two? Article 664 – 63, it is good that if we have a *copropriété* of two persons, we do not

need a syndic, the two get along together. But it works for a certain time. Unfortunately, many problems arise. You have many houses that are abandoned when two brothers, two sisters or two relatives do not get along. So, it is good on paper and whether it will work in practice, this is another issue.

Now, I would like to have some *éclaircissements* with regard to the *quotes-parts*.

Article 664 – 67, *aliéna 4* –

« *Le règlement de copropriété fixe la quote-part afférente à chaque lot dans chacune des catégories de charges et indique les éléments pris en considération ainsi que la méthode de calcul ayant permis de fixer les quotes-parts de parties communes et la répartition des charges.* »

So, your contribution when is the syndic - *le règlement de copropriété* - who indicates the method and the way he has reached your *quote-part*. But what happens if one does not agree? It is his money after all. If he does not agree with the calculation, he does not agree with the method used, what venue does he have according to the law? Because it says under Article 664-69 –

« *La répartition des quotes-parts de charges ne peut être modifiée qu'à l'unanimité des copropriétaires.* »

Is that fair? If you get three or four persons who do not agree, they are not part of the majority, they have just bought a property, their *quotes-parts* have been increased and they do not agree with the way their *quotes-parts* have been calculated or the method used, the law does not allow them to do anything. It is only by *l'unanimité*, thus giving the syndic lots of power. To get that *l'unanimité* - I ask whether it ever happens, *l'unanimité des copropriétaires* - not those present, *l'unanimité des copropriétaires*, all of them have to be there. If there are 100 buildings, what happens if some of them are abroad and they have not sent a proxy? He is a *copropriétaire* so you cannot change. And there are many cases. Especially in a complex around the beach where the owners live in England, in France and abroad, but it says you can only change it *qu'à l'unanimité des copropriétaires*. So, I would like the hon. Attorney-General to tell us why he has gone to that extreme? Why decision is not taken by two third majority or at least unanimity of those present? So, a few owners who are living outside the country can put the syndic to a halt.

Now, the other one which is of more concern is Article 664-73 -

« *Le paiement des créances de toute nature du syndicat à l'encontre de chaque copropriétaire, exigibles depuis moins de cinq ans, est, qu'il s'agisse de provision ou de paiement définitif, garanti par une hypothèque légale sur son lot.* »

So, now, the *syndic* can have *une hypothèque* on that plot of land.

The law, as it is now, you must serve a *mise en demeure* before the *syndic* can *hypothèque* the land of a co-owner. Why is it that we are doing away with that service of a *mise en demeure*? So, without his knowledge, without his consent, there is a *lien* now on his property and he has never been made aware. Let me say that *mise en demeure* came into the law following the Select Committee of 1983 Report, where there was wide concentration with all the stakeholders; they came and deponed, and there they found that there was, in order to protect the right of ownership. It was important before you put a mortgage, *une hypothèque* on somebody's plot of land, there should be a *mise en demeure* served on the owner so that he can be made aware and take whatever appropriate action.

So, I would like the Attorney General, again, to come and tell us why we are doing away with the service of a *mise en demeure* on a co-owner. So, Mr Deputy Speaker, there is, today, a lack of specific standards regarding the management of co-ownership. Some *syndics* do very well, some, unfortunately. Even in the NHDC, let us say, there are some *syndics* who are doing very well, but some, unfortunately, it is just on paper. An obvious lack of knowledge by certain individuals who hold themselves out of managers and a lack of supervision by co-owners. Even some co-owners today are not aware of their rights. Let alone the *syndic*, he is not qualified. Some, like I said, are doing very well, some pretend to do, some are doing nothing. But what about the owners? Most of the owners, especially, in the NHDC, are not even aware of their rights as a co-owner. Some do not even know who is responsible for the *syndic* in some cases. So, this is why I say we should have professional to run the *syndic*. There should be a minimum qualification required because experience has shown, Mr Deputy Speaker, in the maintenance of certain buildings and the transparency available to co-owners, unfortunately, most of the *syndics* do not open their books. Many people do not know how their money is being spent.

But, I will conclude by referring to an article, which is what they are doing in Quebec, dated June 2018. So, in addition to amending their Code Civil there, they have gone deeper. They are amending their law to put in the Code Civil: to require the syndicate to keep up an up-to-date certificate attesting the state of its finance and the condition of the immovable held

in co-ownership as well as provide future buyers with information concerning the immovable and the *syndic*. This is very interesting. They have a Minister who is responsible for property and also responsible for consumer protection. It is important now that people who are buying a flat, I think, it is their duty, because he tells you one person who is supposed to be independent to know the state of the flat. Just by a painting, we do not know what there is behind. We know the state of the flat. There, they are putting it in the law.

The *Syndic* is responsible to have an up-to-date report, not only of the financing of the *syndic*, but also on the state of the building they are dealing with. Now, we find the last one, which I intend to raise, is the question of *copropriétaire en difficulté* in article 664-108. This mentions that a *syndic*, who is in financial problem, can prepare a brief of *financement* and receives money from the State “*ou de la collectivité locale sur le territoire de laquelle est situé l'immeuble qu'il est chargé d'administrer*”. This is you. So, a *syndic*, who is in financial difficulty, can approach Government for money or the local authority. I would like the hon. Attorney General or somebody, who will intervene after me, to tell us how this would be done. Who is going to contribute to that *syndic*, taxpayers' money? We are talking of ratepayers' money and taxpayers' money which will go to the *syndic*. What transparency there will be? Is that money will come back in the kitty of the local or national Government? How this will be done? Okay, we will finance your *syndic*, but how? Where does the money come from? Will the money go back to Government after the *syndic* has stabilised his financial situation? So, these are issues which I would like the hon. Minister to enlighten us. Like I said, there are many new sections to article 664 which have been added. It is only time will tell us whether they will remain only in our textbook. So, now it is on textbook, *mais en pratique* how it will work. When it comes to the smart cities or big complex we are doing, it is only time will tell us whether it is working or not. Like I said, there are good intentions, but there is a lot of clarification. I hope the summing-up will enlighten us, especially the articles which have been mentioned.

I am done, Mr Deputy Speaker Sir.

The Deputy Speaker: Hon. Rutnah!

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

Mr Deputy Speaker Sir, as we speak today in this National Assembly, the law that exists is, for all intents and purposes, outdated insofar as *co-propriété* is concerned. Can you imagine the last time that the law was properly visited was back in 1978!

In 1978, the then Attorney General, Mr Paul Chong Leung, wrote similar kind of law in order to address the problems relating to *copropriété* that existed at that time. Mauritius then did not know high rise building. Mauritius back then did not know high rise commercial properties. Mauritius did not have the benefit of a cybercity that had been created by Sir Anerood Jugnauth. Mauritius did not know, for example, the Sterling Tower/Sterling House which is found in Port Louis, the Newton Tower, big high rise buildings with offices. These are some examples. What we had back in 1978, few private sectors building small flats and selling them or renting them here and there. And back then, the then Attorney General, in his intervention, highlighted a number of difficulties that we were facing as a result of what the law was in 1967.

So, from 1967 to 1978, there was this transition, and it is recognised that *copropriété* is an economic and social necessity. I say it is an economic and social necessity for the following reasons –

- (i) Economic necessity because when we build, when there is development in the country, it demonstrates that this is a country that is bringing economic prosperity, and people can buy property within a *copropriété*, become co-owners, and at the same time there is this principle of multiplier effect within the economy when you spend money, when syndics are created, when people rent; there is expansion in the economy.
- (ii) There is also this social aspect of it; for example, when we have flats created for housing purposes. The NHDC, for example, were for social reasons so that ordinary people of life who cannot afford a property can go and buy property as between co-owners and it costs less, and also the cost is spread over; for example, electricity cost, water cost, all are spread overs.

So, that is why I say that it's a social and economic necessity.

Back in the year 1978, in this House, the then Attorney General said the following –

« *Quant à leur construction, tout d'abord, il n'est pas douteux que la réalisation d'un ensemble d'appartements groupés autour d'infrastructures communes (par exemple, les chemins, voies, couloirs, escaliers d'accès, les canalisations d'eau, l'électricité,*

etc.) s'avère beaucoup moins onéreuse que l'édification de maisons individuelles. Cela d'autant plus que les immeubles collectifs, ayant généralement plusieurs étages et toujours des parties communes, utilisent une surface au sol nettement plus restreinte. Il est inutile de souligner que cela représente une importante économie, compte tenu des prix particulièrement élevés des terrains urbains.

Quant à leur administration et à leur entretien, les immeubles collectifs sont aussi très économiques. La mise en commun de services et de moyens matériels qui se pratique nécessairement dans ces sortes d'immeubles, réduit considérablement les frais encourus par chaque copropriétaire.

Il résulte de ces considérations que l'édification d'immeubles collectifs peut valablement participer à la promotion d'une politique sociale de logement à des prix accessibles aux petits épargnants. »

This is what the then Attorney General said in this House.

But interestingly, the Leader of the Opposition at the time, the then hon. Anerood Jugnauth, now Sir Anerood Jugnauth, was conscious of the problem of housing or the social difficulties, and he was not just the ordinary Leader of Opposition that we have these days. He...

(Interruptions)

The Deputy Speaker: Order, please!

Mr Rutnah: I think hon. Abbas Mamode wants to participate in the debate, but I do not see his name.

In any event, let me tell you what Sir Anerood Jugnauth said at the time. He said the following –

“Sir, with the development of the country, specially in the light of the housing problem, no doubt this amendment which is being brought today was long overdue.”

Similarly, today, the amendment that is being brought in this House is and was always equally long overdue. Since 1978, long overdue, because what the economic infrastructure of this country was back in 1978 has changed horizontally and vertically, such that the economic situation of this country has now come to a level that cannot be compared to what we were in 1978.

And he goes on to say –

“We know that we have already a system of putting up blocks of flats which are sold to diverse owners, they have been put by societies and different persons collectively, and I understand there have been cases where sales have not been able to be finalised and proper title given to purchasers because of certain difficulties that existed in the law as it is. But although on the face of it, this does not show any controversial issue, and definitely it seems at first sight to be quite clear, yet I must say that it is a very technical matter, it is purely a question of trite law and I am sure that it must have been worked on precedents that have been obtaining elsewhere.”

So, what was the situation in 1978, we are today faced with similar situation, and at the time, Sir Anerood Jugnauth was not critical about bringing change, although he was Leader of the Opposition. He could have played politics with it. But politics was not played because it concerned national issue; a matter for our development.

Now, what we were, what we are and what we are going to be insofar as the principle, the context of *copropriété* is concerned, is going to be determined by the present Bill. Why I say so? Because the Bill actually introduces modernisation. It introduces modernisation and there are a number of features that are salient to this Bill which are, in my opinion, as follows

–

- (i) flexibility;
- (ii) better adapted to the reality of the Real Estate sector - to pick the exact words from the Bill -, and
- (iii) it is a matter for economic and social necessity that we have a Bill that reflects today's reality in our country.

The interesting thing about modernisation, if we look at Article 664-26 at page 9, *alinéa 2*, insofar as general assemblies are concerned, we note that –

« Elle doit être reçue par chaque copropriétaire au moins quinze jours avant la date de la réunion, et peut être adressée par tous moyens, notamment électroniques, prévus par le règlement de copropriété, permettant d'établir la preuve et la date de sa réception par le destinataire. »

The word '*électroniques*'. Sometimes, when we read, we do not pay attention to simple words, but the word '*électroniques*' in this context means a lot of things. It means that today

you do not have to go and post a letter necessarily. You do not have to dispatch a manuscript somewhere in some offices. It means that with the advancement of technologies, and with us keeping up with advancement in technology, we can simply use electronic means to actually call a General Assembly, which means efficiency, which means better communication, which means that we are now in an era of modernisation. So, modernisation should continue and reflect in our laws the way we manage *les copropriétés*, the way we manage property, and the way co-owners and syndics are involved in respect of *copropriétés* - whatever part of the *copropriété* is managed, whether what we call *privative or commune*. But there should be some changes that reflect today's reality and today's challenges.

I have also taken note of the provision made for *les copropriétés en difficulté*. In particular, Article 664-104 introduces this provision of *Prévention des difficultés*. This concept has been introduced - it is a novel concept that did not exist before - in order to protect *les copropriétés*, and it reads as follows –

«664-104. Lorsqu'à la clôture des comptes les impayés atteignent 25 pour cent des sommes exigibles en vertu de l'article 664-76, le syndic ou les copropriétaires qui assurent eux-mêmes la gestion collective de l'immeuble, doit ou doivent saisir le Juge en Chambre en vue de la désignation d'un mandataire ad hoc chargé d'examiner les causes de ces défaillances et de proposer les mesures nécessaires à la prévention d'une éventuelle aggravation de la situation comptable.

Aux mêmes fins, le Juge en Chambre peut être saisi par un créancier lorsque les factures d'abonnement et de fourniture d'eau ou d'énergie ou les factures de travaux, votées par l'assemblée générale et exécutées, restent impayées depuis plus de six mois et si ce créancier a adressé au syndic ou aux copropriétaires qui assurent la gestion collective de l'immeuble un commandement de payer resté infructueux.»

What is this all about? What is it introducing? When we read it, it sounds very complicated. But it comes as a protection in order to avoid that *les copropriétés* fall in what we call *délabrement ou insalubrité*. And to complement this provision, we have to go to Article 664-100.

Article 664-100, again introducing this novel concept, reads as follows –

« Un syndicat de copropriétaires peut être membre d'une union de syndicats, groupement doté de la personnalité civile, dont l'objet est d'assurer la création, la

gestion et l'entretien d'éléments d'équipement et d'ouvrages communs ainsi que la gestion de services d'intérêt commun.»

And then it goes on. So, when we take Article 664 and Article 104 together with Articles 664 and 100, these are laws that are related in order to protect the *copropriétaires* not going into what we call *délabrement* in law.

Mr Deputy Speaker, Sir, before coming to the issues that hon. Baloomoody has raised, I want to deal with the rule governing co-ownership and *associations syndicales*. As at now, we know that the same rules apply to *copropriétés* of two apartments. For example, two apartments owned by two different owners and *copropriétés* of several apartments, and to ordinary *copropriétés* and *copropriétés* of social housing.

Now, we are in a situation where we have these big high-rise buildings, we have the Smart Cities; we have Omnicane Smart Cities coming up, Jin Fei coming up. So, we cannot have a law which is also applicable to those who have got two apartments and those with Smart Cities, and there is no equality of arms, so to say. So, it was high time for the law to ponder on this aspect. I am glad that the law relating to *copropriétés* of social housing is now governed on the basis of size or nature of the building, as the Attorney General stated earlier on. This is so in order to give power to the Ministry of Housing and Lands to come up with its own regulations and to manage effectively.

Furthermore, this Bill brings a new concept. Another novel aspect is the introduction of the *association foncière* with regard to management of large scale development at Article 664-123, which reads as follows –

«L'association foncière est une association réelle de propriétaires, dotée de la personnalité civile, ayant pour objet l'appropriation et/ou la gestion des terrains, volumes éléments et équipements visés à l'article 664-119.

Elle n'est pas régie par les dispositions du Registration of Associations Act, du Companies Act, du Business Registration Act ainsi que de toutes autres lois régissant les personnes morales. »

Article 664-123, which introduces this concept of *association foncière*, is another aspect of this Bill that demonstrates that those with higher volumes have to be treated in a way that is fair, equitable and according to the principle of equality of arms.

Now, to deal with a number of issues that hon. Baloomoody has raised, he has raised, firstly, concerns regarding Article 552-1, which he says apparently has been copied from Quebec. And he asked the question: ‘What happens to the property after the expiry of the *Convention*?’ The answer is very simple. Parties to an agreement are free to enter into any sort of agreement in their contract. You are the parties, you decide your terms and your conditions and the Court or any other institution will never intervene unnecessarily on what two parties decide insofar as what terms and conditions on which they want to enter into agreement. So, there is always in property law, especially when you are dealing with real estates, the option to buy. It is always there. You can introduce that option to buy. Once we have an expiry date, you exercise your option to buy and that is going to be the end of the matter insofar as the issue raised by hon. Baloomoody at page 10 of the Bill, Article 664-32, as far as I remember, he said: ‘It is okay’. I have no qualms about this Article given that hon. Baloomoody has acceded and accepted that this part of the Bill is okay. But I take issue with his comments and remarks about Article 664-45 at page 14 in relation to who can become a *syndic*. If we look at the wordings of Article 664-44, it starts by the following –

« Les fonctions de syndic peuvent être assurées par toute personne physique ou morale, professionnelle ou non, ou bénévole.

Tout syndic non professionnel doit être copropriétaire d'un ou plusieurs lots de la copropriété qu'il est amené à gérer. »

So, if you are not a professional syndic, firstly, you have to be any person, but you can be a professional, but what if you are not a professional. No Tom, Dick and Harry just can come and become syndic. It says –

« Tout syndic non professionnel doit être copropriétaire d'un ou plusieurs lots de la copropriété (...). »

So, you have to have an interest in the property to be a syndic. I do not think that anyone in his right mind would put his own interest at jeopardy and will act against the interest of himself and his property and the *copropriété*. No person, in his right mind, will do that. So, I think, the issues raised by hon. Baloomoody can be resolved by giving proper interpretation to this section of the Bill.

There is also concern raised in relation to Article 664-67 at page 21. Now, he asks the question: ‘What if he does not agree with the calculations and that the syndic is being given more power?’ Calculations are calculations. You can agree or you can disagree. But if you

disagree with someone, you call a meeting, you discuss it and after having discussed it, you can come with a solution. If you are not happy about it, if you feel that your rights have been infringed and continue to be infringed, the regime of the *copropriété* allows you to run to the Supreme Court, to go to the Judge in Chambers who sits as *juge des référés*, urgently ask for an order and ask for the judge to make a decision as to what is right and what is wrong. In relation to the concern voiced out by hon. Baloomoody regarding Article 664-73, the service of the *mise en demeure*. Let us read the first part of Article 664-73 –

« *Le paiement des créances de toute nature du syndicat à l'encontre de chaque copropriétaire, exigibles depuis moins de cinq ans, est, qu'il s'agisse de provision ou de paiement définitif, garanti par une hypothèque légale sur son lot.* »

So, if you are not up to date with your payment, you can put a lien, *une hypothèque*. If you owe people money, is it wrong for that person to go and actually put a lien on the property? Are we going to allow people to abuse? Is there not going to be a law about it? But the second part of this Bill says the following –

« *Le syndic a qualité pour faire inscrire cette hypothèque, en consentir la mainlevée et requérir la radiation en cas d'extinction de la dette (...).* »

If the debt is paid, the lien, the *hypothèque* will be then withdrawn. So, I do not think that the fear expressed today by hon. Baloomoody is valid or holds water.

There is also concern raised in relation to Article 664-108 at page 35. Firstly, the Article reads as follows –

« *L'administrateur provisoire doit, en outre, constituer un dossier en vue de l'obtention d'un financement de l'État ou de la collectivité locale sur le territoire de laquelle est situé l'immeuble qu'il est chargé d'administrer.* »

He asked: 'Why the State has to finance the administrator, who is provisionally appointed?'

When I started my discourse, I said that it is an economic necessity and a social necessity to have a law that reflects reality in today's world, in today's Mauritius. If, for any reason, there is a social problem, that social problem will automatically has consequences and the consequences are social outcry to start with.

When there is a social outcry in the country, when you see people going to the *Jardin de la Compagnie* and *grève de faim*, Government, any Government, is bound to go and negotiate and try to find a solution and where it concerns a social policy, social factors

relating particularly to housing to the very livelihood of people, then why not the State should intervene. In the past, this House has voted for a stimulus package and we know what happened to the stimulus package when the Labour/PMSD Government were in power. We know who reaped the stimulus packages and what happened to the money, but I am not going to go that far.

So, Mr Deputy Speaker, Sir, today I must congratulate my very able and learned friend, the Attorney General. What he has done today by bringing this Bill is he has stopped an era of abuse, an era of *copropriété* that didn't reflect the modern challenges and realities; he has brought this country to a different dimension insofar as law relating to *copropriété* is concerned. And I anticipate in the years to come, Mauritius will benefit more economic development under this Government where more high-rise buildings and businesses and smart cities will be created and this law will be reviewed in the future just like it was reviewed in 1978, in 1983 and it is reviewed now in order to keep up with the pace of development. Mind you what the French Law was then in 2008, there was a judgment of the Supreme Court, in which the Judge in the case couldn't find a way, couldn't find any law, to any Mauritian Law to refer to because of lack of cases and lack of jurisprudence. This is what the Judge has to say. Before I end perhaps I should put it on record, the Judge said the following: "L'article 664 to 664 - 96 of the Code Civil provide legal framework for the administration of common parts in buildings owned en *copropriété*. Unless the co-owners have derogated from same by means of specific *règlements*. As observed in the introductory part of the section on '*de la copropriété*' in the Code Civil *annotés* edited by L.E. Venchard articles 664 to 664-96 have been largely inspired by the French legislation on the same subject" Loi du 10 Juillet 1965 and décret no. 67-223 du 17 Mars 1967". And the Judge goes on to say: "It would therefore be appropriate to seek guidance from French case law, especially in view of the porosity of our own case law on the subject"

This is what has been cured today. Although we don't have specific case laws to refer to, now the Courts can go and refer to the new Code Civil, the amendment today and find guidance as the law is.

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

The Deputy Speaker: Hon. Mrs Selvon!

Mrs D. Selvon (Second Member for GRNW & Port Louis West): Merci M. le président.

M. le président, l'Attorney General continue avec raison sa série de réformes pour moderniser notre Code Civil qui date du XIXe siècle. Il faut dire ceci que la copropriété existe depuis la nuit des temps. L'amendement qui est devant nous aujourd'hui se situe dans une longue tradition, déjà à Babylone et à Rome, existaient des immeubles comportant des logements appartenant à différents propriétaires. En France, cette forme de propriété apparaît sous l'ancien régime dans différentes villes, cependant il ne s'agit encore que d'une superposition de propriété individuelle.

Chacun construit et entretient le gros œuvre de son étage, le propriétaire du dernier étage se charge de la couverture de l'immeuble il y a donc pas encore de parties communes hormis le terrain. La copropriété fait son apparition dans le Code Civil en 1804. En effet, le caractère impartageable de fait des parties communes fait l'échec à l'application de l'adage : nul n'est tenu de rester en indivision. L'article 664 du Code Napoléon est ainsi rédigé lorsque différents étages d'une maison appartiennent à divers copropriétaires si les titres de propriété ne règlent pas le mode des réparations et reconstructions, elles doivent être faites ainsi qu'il suit les gros murs et le toit sont à la charge de tous les copropriétaires chacun en proportion de la valeur de l'étage lui appartenant.

Le propriétaire de chaque étage fait le plancher sur lequel il marche, le propriétaire du premier étage fait l'escalier qui y conduit, celui du second étage l'escalier qui conduit chez lui et ainsi de suite. Ce texte reprend le principe des propriétés superposées, chaque étage ne comprenait généralement qu'un logement mais introduit la notion de parties communes en mettant le gros œuvre à la charge de tous les propriétaires. Au cours du XIXe siècle, le nombre d'immeubles collectifs se multiplie en Europe et l'on constate l'apparition d'équipements communs: eau courante, gaz, électricité, chauffage collectif et ascenseur ainsi que des services communs: concierge; des règlements de copropriété tentent alors de pallier l'absence de législation.

Aujourd'hui à Maurice le Code de l'année 1804 ne peut plus s'appliquer à l'expansion fulgurante du développement immobilier, ce qui justifie pleinement dans l'amendement que nous allons voter l'introduction d'un nouvel Article 664 redéfinissant légalement la copropriété de son organisation ainsi que son administration. Le rôle du syndic

et du conseil syndical, la gestion financière et tous les autres aspects souvent controversaient cette gestion. En France, les grandes retouches au Code Civil concernant la copropriété se font continuellement depuis 1965 surtout sur le mode de gestion. Ces changements sont expliqués comme suit : plusieurs modes de gestion étaient prévus par la loi du 10 juillet 1965. La gestion dite professionnelle par un mandataire extérieur qui fait profession de cette activité syndic professionnelle. La gestion dite bénévole par copropriétaires élus par l'assemblée générale syndic bénévole, ce système est souvent utilisé dans les plus petites copropriétés comportant peu de partis et de services communs. La gestion selon le mode du syndicat de forme coopérative, le syndic est élu par le conseil syndical parmi ses membres et assume la présidence du conseil syndical, président syndic. Ce système instaure une gestion collégiale tout en assurant sa pérennité, car en cas de démission ou d'empêchement du président syndic, le conseil syndical peut élire un nouveau syndic sans avoir à réunir une assemblée générale.

Le Code Civil nous a été légué par la France et c'est une bonne chose que nous conservons jalousement la belle langue française dans nos lois, surtout pour les questions relatives à la propriété immobilière qui est sacrosainte dans notre pays où la clarté exceptionnelle de cette plus belle langue du monde nous sera utile aussi longtemps que ce pays existera.

Je conclus ici, M. le président, en précisant qu'en tant que parlementaire indépendante je voterai pour l'amendement proposé par l'honorable *Attorney General*, Manish Gobin.

The Deputy Speaker: Thank you, hon. Mrs Selvon. Hon. Jhugroo!

(6.42 p.m.)

The Minister of Housing and Lands (Mr P. Jhugroo): Thank you, Mr Deputy Speaker, Sir. I want to thank my hon. friend, the Attorney General, for bringing this long-awaited piece of legislation. The Code Civil Mauricien, which is largely inspired by the French law, provides *inter alia* for the rights of *copropriétaires*. The proposed amendments will address in a more comprehensive manner issues related to the local real estate sector, more specifically la *copropriété*, with changes in housing development patterns, the economic development throughout the years and the desire to attract foreign investment for development.

Mr Deputy Speaker, Sir, with the increasing number of development under the regime of *copropriété* being implemented, it is essential that the amendments to the Code Civil on

copropriété and *associations syndicales* be brought about. The amended legislation provides for more flexibility, for example, a few neighbouring apartment, buildings will be able to pool the resources together to operate a common green space or solar panels for the benefits of all the *copropriétaires*.

First of all, a development can now be subdivided into smaller *copropriétés* to manage a facility dedicated to a smaller group of residences, for example, a gym. The NHDC Ltd is facing challenges in respect of the smooth running of the *syndicat*. There are presently 41 *syndicats* which have been set up at NHDC Housing Estates, and this legislation will help the syndic to perform more efficiently.

With these amendments, a syndic will now have stronger powers to ensure compliance with building regulations and to initiate legal action against owners who have contravened provisions of *cahier des charges*. This will assist local authorities to ensure compliance with permits issued coupled with the recent amendment to the Local Government Act 2011 regarding illegal construction.

The proposed amendment to the existing Code Civil Mauricien sets out in a more comprehensive manner the role of the *association foncière* which will now replace the *association syndicale* of *morcellement*. This *association foncière* will allow several *morcellements* to enter a cost sharing agreement to finance common infrastructure such as roads and utility services. This will again reduce the burden on Local Authorities. My Ministry leases State land in the name of *syndicat de copropriétaire*, as per provisions of the lease agreement. It is the *syndicat* which is solely responsible for the payment of rental and compliance with other conditions of the lease.

However, my Ministry encounters practical problems in recouping rental from the *syndicat* as one or more members of the *syndicat* do not settle their dues as mentioned by hon. Baloomoody. The amendment of the Code Civil now provides for amendment to article 22 (51) which makes provision that the *syndicat de copropriétaires* shall also become a *créancier privilégié* which will allow the syndic to recover dues owed by its members.

The new legislation will ensure the smooth administration of complex property developments and will benefit especially smart city development with respect to management of public common spaces, utility provision, leisure facilities and apportionments of cost. Besides, as in the future, we will have more high-rise buildings, the new legislation will

regulate and define ownership of vertical space instead of ownership for horizontal space only.

Mr Deputy Speaker, Sir, let me conclude. This piece of legislation takes into consideration the existing law in success and the wide knowledge of practitioners, as such it is neither meant to be revolutionary nor destabilising. In fact, this Bill improves the current legislation, it enriches it, sometimes simplifies it by trying to remain in its deep logic so that all those who will have to use this new right of the *copropriété* and the real estates are not disoriented by the amendments.

Finally, the aim of these amendments is to bring more clarity and simplify real estate management. I am sure that with the coming into force of the Code Civil Mauricien (Amendment) Bill, we shall have a regime which is more flexible and better adapted to the reality of the local real estate sector.

With these words, Mr Deputy Speaker, Sir, I thank you for your attention.

The Deputy Speaker: Hon. Ramano!

(6.48 p.m.)

Mr K. Ramano (Third Member for Belle Rose & Quatre Bornes): Merci, M. le président, de me donner la possibilité d'intervenir sur le présent projet de loi qui a pour titre *the Code Civil Mauricien (Amendment) Bill*, qui tend à amender les articles du Code Civil relatif aux régimes des copropriétés et d'introduire par la même, une notion nouvelle, qui est la division en volume du moins au niveau législatif.

Fidèle à son habitude, l'*Attorney General* a été très expéditif dans sa présentation. Il y a eu des applaudissements traditionnels mais il faut d'emblée reconnaître que le régime de la copropriété et la division en volume sont des sujets complexes même pour les professionnels du droit. Le régime de la copropriété régit tout l'immeuble bâti ou groupes d'immeubles bâtis quand la propriété est répartie entre plusieurs personnes par lot, comprenant chacun une partie privative et une quote-part des parties communes.

M. le président, ce régime date de 1978 seulement à Maurice car il faut bien le reconnaître que la réalité sociologique est telle à Maurice que l'habitat en copropriété à Maurice est l'exception car la grosse majorité des mauriciens ont tendance à favoriser une habitation indépendante avec leur propre cour et espace jardin. Depuis 1978, il y a eu une progression lente mais constante, il faut le reconnaître que l'adoption d'une habitation en

vertical et même en horizontal avec plusieurs propriétaires, toute en ayant leurs lots privatifs, partageant des espaces communs sont réputés privatifs les parties des bâtiments et les terrains réservés à l'usage exclusif d'un copropriétaire déterminé. Les parties privatives sont la propriété exclusive de chaque copropriétaire, sont communes. Les parties des bâtiments et des terrains affectés à l'usage et à l'utilité de tous les copropriétaires ou de plusieurs d'entre eux, est également commun tout droit à un bail consenti selon les termes du Code Civil.

Dans un tel cas de figure, il faut le souligner que le statut de la copropriété est prévu dans les articles 664 et suivant du Code Civil, s'applique de plein droit, même s'il n'existe pas de règlement de copropriété par un acte notarié afférent à l'immeuble.

M. le président, le mérite de ce projet de loi se situe dans le fait qu'il tend à adapter cette loi de 1978 à une profonde mutation des projets immobiliers qui sont passés de traditionnel complexe résidentiel ou commercial, en vertical ou en horizontal, de plus de deux lots privatifs avec des parties communes, pour adopter, en deuxième lieu, des cas où on se retrouve des lots privatifs qui sont construits de telle façon, et très souvent d'une façon indépendante, entrée privée, jardin privé avec des compteurs séparés pour l'eau, l'électricité et dans ce présent cas, malgré le fait qu'ils partagent un espace de terrain commun, il n'existe pas vraiment de parties communes.

Et, en troisième lieu, on se trouve dans des projets de grande envergure où il y a des *mixed use* des projets d'appartement privé avec des espaces publics, des routes, des espaces magasin avec plusieurs gestions pour un même complexe, dans des grosses agglomérations telle que Paris, on se retrouve dans des mêmes complexes, des stations de métro, le trafic routier et couplé avec cela, des centres commerciaux qui sont attachés avec ces centres d'aménagement intégré. Et là, je tiens à saluer les initiatives pour venir de l'avant avec une législation adaptée à ce type de développement immobilier.

Le présent projet de loi a comme particularité d'introduire une notion nouvelle qui est la division en volumes. C'est une notion nouvelle ici. Même en France, il faut le reconnaître, cela n'a pas été clairement codifié. On se base très souvent sur la jurisprudence française en ce qui concerne l'interprétation, la définition de la division en volumes. Il est dit la division en volumes reconnaît qu'il n'existe aucun espace commun entre les copropriétaires, aucune indivision n'est créée au sein de l'ensemble immobilier. Ainsi, la réalisation de travaux sur l'un des volumes peut se faire sans l'accord des autres propriétaires.

L'association entre les parties privatives, et une quote-part de parties communes est fondamentale pour les lots en copropriété. Cette dualité n'existe pas dans la division en volumes qui est juste une apposition dans l'espace de droit de propriété exclusif. La division en volumes est, en effet, une application de la théorie du droit de superficie issue de la séparation de la propriétaire du sol et de la propriété du dessous.

M. le président, il est vrai que les *smart cities* constituent un aménagement intégré, regroupant aussi bien, je l'ai dit, des propriétés privées en lotissement, des lotissements requérant un partage de partie commune soumise au régime traditionnel de la copropriété, mais aussi des infrastructures publiques ouvertes au public, ou encore des surfaces d'occupation indépendante, comme des jardins, des parcs d'exposition ou récréatifs ouverts à n'importe quel membre du public.

Il est important de créer un régime juridique des ensembles immobiliers afin d'assurer le bon fonctionnement des éléments indispensables à la bonne marche et à la vocation des *smart cities*, pour parler plus spécifiquement dans le contexte mauricien. Dans ce contexte, le présent projet de loi prévoit aussi des associations foncières que l'on pourrait considérer comme classiques que des groupements au périmètre susceptible de régir des équipements appartenant à plusieurs associations foncières qui pourraient être considérées comme des associations foncières. Chapeau!

Le présent projet de loi dans un souci de libéralité donne la possibilité à chaque association foncière de venir de l'avant avec ses propres agencements, mais il est tout de même impératif de respecter les règles de base de la copropriété et de polymétrie que ce présent projet de loi a énuméré, ainsi l'article 664-123 du présent projet de loi définit –

«L'association foncière est une association réelle de propriétaires, dotée de la personnalité civile, ayant pour objet l'appropriation et/ou la gestion des terrains, volumes éléments et équipements(...) »

Il est à souligner que tout comme l'existence de syndicat des copropriétaires, des syndicats, ici aussi le présent projet de loi considère que les associations foncières ne sont aucunement régies par les dispositions du *Registration of Association Act*, du *Companies Act*, du *Business Registration Act*, ou les lois régissant les personnes morales. Les dispositions du Code Civil donnent une existence juridique à ce type d'association contrairement aux autres personnalités morales dans la loi mauricienne.

Autre nouveauté, dans ce présent projet de loi, M. le président, se situe au niveau de la distinction entre les parties communes générales. Premièrement, les parties communes spéciales et les parties communes à jouissance privative, bien que les actes notariés fassent état de telles parties communes, celles-ci existaient comme des servitudes acceptées par les copropriétaires lors de la rédaction du règlement de copropriété. Aujourd'hui, des articles du présent Code Civil font spécialement provision et sont codifiés. Ainsi, les parties communes générales sont affectées à l'usage et l'utilité de tous les copropriétaires. Les parties communes spéciales sont celles affectées à l'usage et l'utilité de plusieurs copropriétaires - pas tous, de certains seulement - et cela représente et engendre une répartition de charges spéciales. Et troisièmement, en termes de partie, il y a la partie commune à jouissance privative, c'est-à-dire ce sont des parties communes affectées à l'usage et à l'utilité exclusive d'un copropriétaire seulement. Les parties communes spéciales et celles à jouissance privative doivent être expressément mentionnées de l'état descriptif de division et dans les règlements de copropriété.

M. le président, je souhaite aborder maintenant la part de contribution de chaque propriétaire dans l'administration des parties communes. Cela a toujours été un point de discussion entre notaires, arpenteurs, architectes et autres professionnels de l'immobilier. L'article 664-10 préconise : la quote-part des parties communes, de chaque lot est proportionnelle à la valeur relative de chaque partie privative par rapport à la valeur de l'ensemble des lots et ces valeurs résultent, lors de l'établissement de la copropriété, de la superficie, de la consistance et de la situation de chaque lot pour connaître la quote-part, quelle sera la proportion qui sera appliquée dans la part de contribution de charges communes par chaque copropriétaire.

M. le président, malgré l'amendement qui est présentement apporté au Code Civil, le présent amendement ne dit rien quant au poids de pondération des ses éléments, de la superficie, de la consistance et de la situation de chaque lot. Cela est laissé à la libre appréciation des professionnels. Ainsi, chaque copropriétaire est libre, et cela est tout à fait légitime qu'il se pose des questions, telles que quelqu'un qui se trouve au rez-de-chaussée se posera toujours des questions quant à l'utilisation de l'ascenseur ; doit-il contribuer à l'entretien de l'ascenseur ou encore les bruits auxquels doivent faire face les lots proches des piscines et des jardins d'enfants ne sont pas pris en compte dans la répartition des charges. Les lots qui se trouvent en hauteur avec une vue imprenable sur la montagne ou la mer, doivent-ils faire l'objet d'une contribution supplémentaire aux charges communes ? La loi est

silencieuse à ce niveau, M. le président. J'aurais souhaité que des experts français qui ont apporté leur contribution dans la rédaction du présent projet de loi nous apportent leur contribution eu égard des cas pratiques français ou encore des jurisprudences françaises qui, je dois dire, sont très étoffées à cet effet.

L'Article 664-12 précise que le –

« (...) règlement conventionnel de copropriété, incluant un état descriptif de division, est établi par acte notarié. »

Cela donne une force probante, une authenticité au régime de la copropriété. Le débat est devenu passionnant, voire émotionnel quant à la compétence des personnes qui sont aptes à rédiger l'état descriptif des divisions. Le présent projet de loi, et là on a entendu de l'*Attorney General* qu'il se peut très bien que cette disposition fasse l'objet d'un amendement au *Committee Stage*, la forme initiale de ce présent projet de loi précise que cela peut être –

« (...) établi par un professionnel compétent, étant soit un arpenteur au sens du Land Surveyors Act, un architecte au sens du Professional Architects' Council Act ou un Notaire au sens du Notaries Act (...) »

Cela est critiqué par certains arpenteurs qui considèrent que cela devrait être le terrain de chasse des arpenteurs uniquement. Je dois dire qu'il n'y a aucune justification à cela, car l'état descriptif de division ne requiert pas une compétence particulière, d'autant que les copropriétaires auront la possibilité de choisir celui qui soit le plus apte à rédiger l'état descriptif de division, l'acte notarié constatant un règlement conventionnel de copropriété étant transcrit et sera nécessairement opposable aux tiers ; opposable à tous les copropriétaires, leurs ayants cause et même les locataires.

M. le président, les principes fondamentaux de la copropriété sont restés les mêmes, mais le mérite de cette loi, c'est qu'elle prévoit une simplification, un abaissement des majorités en assemblée générale. Ainsi, si aucune décision n'est prise à l'assemblée générale en raison de l'absence de majorité requise, l'Article 664-36 prévoit que si le projet de loi a recueilli au moins le tiers des voix de tous les copropriétaires, la même assemblée peut décider à la majorité prévue à l'Article 664-34, c'est-à-dire la majorité des voix des copropriétaires présents ou représentés. Lorsque le projet de loi n'a pas recueilli le tiers des voix, une nouvelle assemblée générale doit être réunie pour statuer dans les conditions de majorité prévue à la majorité des voix des propriétaires présents ou représentés. Autre cas d'allègement de majorité de voix en assemblée générale se situe lors des actes d'acquisition

immobilière ou de disposition. La modification du règlement de copropriété où il concerne la jouissance, l'usage et l'administration des parties communes, la majorité dans ce cas de figure passe de trois quart à deux tiers de la totalité des voix.

M. le président, je souhaite aborder ici un aspect où je souhaite avoir des clarifications. Je parle ici de la section 664-63 où il est mentionné que les copropriétés ne comportant que de lots à usage d'habitation, de commerce ou de bureau, les copropriétaires peuvent passer un contrat relatif à l'exercice de leur droit pour une durée initiale de 3 ans. Cela est très vague. Je considère que cela mérite d'être précisé. Ce contrat n'est pas tenu de respecter les dispositions de la présente section ; c'est mentionné dans la loi. Il doit cependant prévoir les modalités de la représentation du syndicat des copropriétaires vis-à-vis des tiers. Idem pour les copropriétés ne comportant pas plus de 5 lots où possibilité est donnée à une administration collégiale - on ne parle pas de syndicat de copropriétaires ; on parle ici d'une administration collégiale - et consensuelle des immeubles par les copropriétaires sans la nomination nécessairement d'un syndicat de copropriétaires. Mon souci dans ce cas présent, dans la pratique des choses ici à Maurice, ce sont les copropriétés, des immeubles bâtis sur les terrains loués à bail par le gouvernement à des privés.

Il est maintenant de pratique à Maurice que le bail est signé entre le syndicat de copropriétaires et le gouvernement. La question qu'on est en droit de se poser avec l'amendement de ce présent projet de loi est : est-ce qu'un contrat relatif de 2 lots ou encore l'administration collégiale des 5 lots pourront valablement lier les copropriétaires au gouvernement dans le contrat de bail des *State lands* ?

M. le président, outre le fait que le notaire qui rédige un acte de vente d'un appartement en copropriété doit toujours s'assurer que le vendeur soit en règle avec le syndic, le présent projet de loi s'assure tout aussi bien que le syndic et l'association foncière viennent en priorité des rangs des créanciers. Je pense que c'est une très bonne chose, M. le président. Le syndic dépasse même le privilège du vendeur ou encore l'institution créancière ayant financé l'acquisition du vendeur. Cette provision, M. le président, a une importance capitale, car le cadre de vie d'un immeuble, la qualité de ses infrastructures dépendent nécessairement de la santé financière du syndic. Trop souvent, on s'est retrouvé dans des cas où les autres propriétaires ont dû mettre la main à la poche pour subventionner les dettes des propriétaires mauvais payeurs. Ainsi, il va s'en dire qu'avec ce privilège qui est aujourd'hui conféré aux syndicats et aux associations foncières, les institutions créancières vont à juste titre réclamer le feu vert des syndicats avant d'avancer les facilités bancaires pour les emprunteurs qui donnent

comme garantie des appartements, par exemple. Cette pratique n'excluant rien la possibilité des syndicats de saisir les cours de justice pour les dettes impayées ou encore de demander les cours de justice d'imposer des hypothèques judiciaires sur les appartements dont les propriétaires ne sont pas en règle avec la caisse syndicale. Et là, provision est faite que les syndicats auront aussi la possibilité éventuellement de venir de l'avant avec des hypothèques légales.

Sur ce, M. le président, je vous remercie, et c'est ma contribution au présent projet de loi.

The Deputy Speaker: Hon. Sinatambou, you have the floor!

(7.09.p.m.)

The Minister of Social Security, National Solidarity, and Environment and Sustainable Development (Mr E. Sinatambou): Thank you, Mr Deputy Speaker, Sir. I would like to start first, Mr Deputy Speaker, Sir, to congratulate the hon. Attorney General, Minister of Justice and Human Rights for bringing this *projet de loi* before this House this evening. This Bill, as is stated in its objects, is four-fold. It is interesting to note that throughout the course of the afternoon, we have had several interventions, but most of them have rightly so stressed on the amendments being brought to Article 664-1 to 664-96 of the Mauritian Civil Code. I will, however, start by the third object of this Bill, which deals with the amendments being brought to Article 703 of the Civil Code in relation to "*servitudes*".

Indeed, if one looks at Article 703, as it now stands, if I may refer you, Mr Deputy Speaker, Sir, to pages 43 and 44 of the Bill where we are adding a new alinéa to Article 703 about servitudes, saying about them –

« ...que les servitudes cessent également lorsqu'elles ont perdu toute utilité actuelle au regard des objectifs ayant conduit à leur création. »

At the moment, as the law stands, *les servitudes cessent lorsque les choses se trouvent en tel état que l'on ne peut plus en user*. Now, what is the change being brought to the law? It is that from the term '*que les servitudes vont cesser lorsque les choses se trouvent en tel état que l'on ne peut plus en user*'.

We now add: '*lorsqu'elles ont perdu toute utilité actuelle au regard des objectifs ayant conduit à leur création*'.

Now, what has happened is that since the 19th Century, the French legislator had already envisaged in Article 703 the evolution of circumstances which would make that servitude could actually cease, but only *lorsque les choses se trouveraient en tel état que l'on ne peut plus en user*. However, what happened is that the jurisprudence of the time has actually been very restrictive to the extent that, as it says in French law –

« Elle fut très restrictive et elle a en fait enlevé l'essentiel de la portée de ce texte dans la mesure où la jurisprudence française a jugé que seule une impossibilité absolue d'usage pourrait mettre fin à la servitude. »

Alors que l'article 703 nous disait que la servitude pourrait cesser lorsque les choses se trouveraient en tel état que l'on ne peut plus en user, la jurisprudence française a, elle, imposé une impossibilité absolue d'usage pour pouvoir mettre fin à la servitude. Il y a eu une évolution du droit Français à travers une décision de la Cour de Cassation, le 23 février 2005, mais dans un nombre d'autres cas les raisons qui auraient motivé une évolution de cette appréciation du droit n'ont malheureusement pas continué dans la même voie.

Dans un certain nombre de cas, les raisons ayant présidé à la création des servitudes ont disparu sans que malheureusement ne put être constaté une impossibilité matérielle d'usage et c'est là que rentre en jeu aujourd'hui l'amendement qui été amené par ce projet de loi à l'article 703, et ce, malgré que la jurisprudence française n'a pas nécessairement évolué de façon rigide dans cette direction. C'est au regard d'un objectif développé dans l'exposé de ces motifs que, donc, je soutiens que l'amendement à l'article 703 s'inscrit.

Le deuxième aspect de mon intervention, M. le président, concerne le nouvel article 552-1 qui vient codifier la division en volume au regard de la propriété immobilière. D'après l'article 552 du Code Civil Mauricien, le propriétaire d'un bien est autant propriétaire du dessus que du dessous, mais le nouvel article 552-1 vient nous parler d'une division qui peut viser à conférer à différent tiers une partie des fonds. Que nous dit l'article 552-1 ?

« Un fonds peut faire l'objet d'une division visant à conférer à un tiers la propriété d'une partie de ce fonds situé au-dessus ou au-dessous d'une limite conventionnellement fixée. La propriété du dessus sera appelée propriété superficière, celle du dessous propriété tréfoncière. »

« Un fonds peut également, moyennant établissement d'un état descriptif de division, dorénavant faire l'objet d'une division spatiale portant création de volumes. »

Ces volumes, M. le président, sont des immeubles par nature qui seront intégrés dans un ensemble immobilier dans le sens de l'article 664-119 et, en conséquence, ils seront soumis aux dispositions des articles 664-120 à 664-138. J'ai commencé par ces deux autres articles que les articles 664, M. le président, parce que ces deux changements au Code Civil viennent s'imbriquer dans les amendements qui sont amenés ce soir aux articles 664-1 à 664-96 du Code Civil Mauricien. Déjà, pour revenir à ce que j'ai entendu du côté de l'opposition, – je suis très heureux que l'honorable Madame Selvon ait été, de mon point de vue, très appréciative de ce projet de loi.

J'ai aussi beaucoup apprécié le discours du précédent orateur qui nous a parlé d'applaudissements traditionnels, mais j'ajouterai cependant, mais combien mérités parce que je crois qu'un changement, tel que celui que nous observons aujourd'hui, est un pas en avant, après 40 ans d'une loi qui date de 1978.

Je retourne temporairement, M. le président, à cette loi de 1978. Auparavant nous avions l'Ordonnance No. 32 de 1966 qui avait abrogé l'ancienne article 664 du Code Napoléon et l'avait remplacé par un nouvel article 650, comprenant 41 paragraphes directement inspirés de la loi française du 10 juillet 1965 relative à la copropriété des immeubles bâtis. Cependant, ce nouvel article 664 prévoyait une réglementation incomplète car la loi française devait elle-même être complétée par un décret d'application. Malheureusement, ce décret n'avait pas encore été promulgué en France à cette époque et, conséquemment, l'Ordonnance No. 32 de 1966 n'avait pas été complète. C'est dans ce sens que la loi No. 37 de 1978 a procédé à ce complément nécessaire. En conséquence, les articles 664 à 664-96 en réglementaient jusqu'aujourd'hui la copropriété, en s'inspirant à la fois de la loi française du 10 juillet 1965 et de son décret d'application, c'est-à-dire, le décret français No. 67-223 du 17 mars 1967. Il faut, ici, souligner que les nouveaux articles de l'acte No. 37 de 1978, en l'occurrence, les articles 664 à 664-96, avaient été rédigés en consultation avec le Professeur Giverdon de l'Université de Grenoble. Ceci, pour expliquer, donc, comment nous sommes arrivés à aujourd'hui. Et, ici, je tiens, peut-être, à rappeler que ce n'est pas le *Select Committee* de 1983, tel que nous a dit l'honorable Baloomoody, qui a amené les articles 664 à 664-96 du Code Civil Mauricien. Mais aujourd'hui que se passe-t-il ? Aujourd'hui, lorsque nous allons voir ce projet de loi, il faut le voir en deux sens. Nous avons les articles 664 à 664-118 qui constituent, eux, la section (1) (a) de ce projet de loi. Ces articles 664 à 664-118 concernent la copropriété des immeubles bâtis et à bâtir.

Ensuite, ce projet de loi est complété par les articles 664–119 à 664–139 qui eux se trouvent aux pages 37 à 44 du projet de loi et eux viennent couvrir les ensembles immobiliers. Les ensembles immobiliers composés, je cite –

« (...) de plusieurs terrains ou volumes bâtis ou destinés à l'être, ou même à destination agricole ou industrielle, assiettes de propriétés individuelles ou de copropriétés, et comportant des terrains, volumes, éléments, ou équipements qui, quel qu'en soit leur propriétaire, sont mis à la disposition de chacun des propriétaires ou copropriétaires ou d'une partie d'entre eux. »

Donc, Section Première - A qui va régir le statut de la copropriété des immeubles bâtis ou à bâtir et la Section Première - AA qui réglementera la gestion des terrains des ensembles immobiliers et des équipements communs de ces ensembles immobiliers.

Ce qu'il faut déjà ajouter, M. le président, c'est que l'article 664-140 rend tous ces articles contraignants. Si je peux me permettre de le lire parce que l'article 664-140, alinéa premier, stipule que -

« Les dispositions de la Section Première – A et de la Section Première – AA s'appliquent immédiatement à la création de nouvelles copropriétés et à celle de nouveaux ensembles immobiliers. »

Et il faut aussi le souligner, à part cet aspect contraignant donc de cet amendement au Code Civil, les règles de copropriété dont contenues aux articles 664 à 664–140 seront contraignants non seulement aux nouveaux ensembles mais les copropriétés et les ensembles immobiliers existants au jour de l'entrée en vigueur de cette loi,

devront immédiatement se conformer dans un délai de cinq ans aux dispositions de ces articles à compter de leur promulgation. Ce qui explique l'importance de bien saisir le sens des articles dont nous parlons ce soir.

Que peut-on dire d'important après ce que nous avons entendu des autres orateurs ce soir ? Premièrement, je dirais, M. le président, que l'aspect dirais-je contraignant de la copropriété ne s'attachera pas nécessairement aux copropriétés concernant deux lots, aux copropriétés concernant cinq lots et aux copropriétés concernant plus de cinq lots qui ne sont pas à l'usage d'habitation. En effet, selon les articles 664-63, 664-64 et 664-65, ces copropriétés composées de deux lots, de cinq lots ou de plus de cinq lots à non usage d'habitation peuvent donc déroger totalement ou partiellement aux règlements qui seront aujourd'hui votés par cette auguste Assemblée.

Deuxième aspect, à mon avis, très intéressant et nouveau, innovant sont la constitution de syndicats secondaires, la possibilité de scission de copropriétés et la possibilité d'union des syndicats. Je me permets ici, M. le président, de vous référer aux pages 29 et suivants du projet de loi dans la mesure où auparavant on n'avait pas la possibilité d'avoir de syndicats secondaires, et il faut dire qu'il est souvent opportun lorsque l'immeuble comporte plusieurs bâtiments ou plusieurs entités homogènes qui sont susceptibles d'une gestion autonome, il est opportun que les propriétaires dont les lots composent l'un ou plusieurs de ces bâtiments ou entités, qu'ils puissent, réunis en assemblée générale, décider de la constitution entre eux d'un syndicat secondaire.

Évidemment, il ne fait pas sens d'être dans un complexe où nous avons trois tours. Je prends un exemple. Nous avons trois tours de 15 étages mais qu'un des propriétaires de la tour B doit venir voter ce qui va se faire à tour A. Alors, c'est pour cela que la possibilité de ces syndicats secondaires est, à mon avis, opportune parce que ce syndicat qui a pour objet d'assurer la gestion, l'entretien et l'amélioration interne de ce ou de ces bâtiments, évidemment sous réserve des droits résultant pour les autres propriétaires des dispositions du règlement de copropriété, qu'ils puissent donc gérer leur partie du bâtiment avec ce syndicat secondaire.

Il faut aussi savoir que ce syndicat secondaire, de par l'article 664-94, alinéa 3, est doté de plein droit de la personnalité civile et fonctionnera dans les conditions qui sont prévues dans les articles qui suivent. Il faut aussi ajouter ici l'autre aspect innovant de ce projet de loi qui se trouve être la scission de propriétés. Alors, cette scission peut intervenir selon les termes de l'article 664-96 si la division au sol est possible dans les conditions suivantes –

1. lorsque les lots bâtis ou non bâtis appartiennent à un propriétaire unique, ou
2. lorsque les lots appartiennent à plusieurs propriétaires et correspondent à un ou plusieurs bâtiments, peuvent aussi faire l'objet d'une scission en volume, un ensemble immobilier complexe comportant soit plusieurs bâtiments distincts sur dalle soit plusieurs entités homogènes à destinations différentes pour autant que chacune de ces entités permette une gestion autonome.

À part cet aspect, je voudrais aussi vous référer, M. le président, aux pages 32 et 33 donc de ce projet de loi où nous avons donc l'article qui concerne l'union des syndicats. Nous retrouvons ce sujet à l'article 664-100 où nous est-on dit –

« Un syndicat de copropriétaires peut être membre d'une union de syndicats, groupement doté de la personnalité civile, dont l'objet est d'assurer la création, la gestion et l'entretien d'éléments d'équipement et d'ouvrages communs ainsi que la gestion de services d'intérêt commun.

Cette union peut recevoir l'adhésion d'un ou de plusieurs syndicats de copropriétaires, de sociétés immobilières, de sociétés d'attribution et de tous autres propriétaires dont les immeubles sont contigus ou voisins de ceux de ses membres. Elle peut être propriétaire des éléments communs qu'elle gère. »

Donc, je crois que nous pouvons ici prendre note de cet aspect, je dois le dire, qui m'étais, moi, inconnu que donc un syndicat de copropriétaires d'un lot d'appartements peut finalement s'unir à un lot à un syndicat de copropriétaires d'un autre bâtiment à propriétés différentes et évidemment afin de réduire les coûts, afin d'avoir une économie d'échelle aussi longtemps que la réglementation suffit.

Ici je dois me permettre peut-être de répondre à une petite pique, dirais-je, qu'a lancée un des membres de l'opposition dans son discours en prétextant que les bâtiments en copropriété sont la conséquence d'un problème de *law and order*. Alors, je rappellerai à ce membre, M. le président, qu'en France une unité résidentielle sur quatre se trouve être en copropriété. Disons-nous donc que la France se meurt dans une instance d'absence totale de *law and order*. Moi, je crois qu'il faudrait que nous arrêtions, à chaque fois, de toujours faire malheureusement preuve de ce fameux syndrome qui est maintenant nationalement connu du *nanier pa bon* et être plus sérieux dans nos propos parce que, après tout, nous parlons d'une loi moderne, d'une loi innovante, d'un progrès, d'un modernisme qui devraient être appréciés et qui devraient dépasser la politique partisane.

Je me permets de parler aussi, M. le président, d'un aspect que j'ai trouvé, d'un nouvel aspect et qui ajoute au modernisme que l'Attorney General, ministre de la justice et des droits humains, a voulu apporter et ça se trouve être les copropriétés en difficulté. Je crois que c'est une notion qui est connue de tous et nous savons tous combien de copropriétés connaissent des difficultés. Mais nous conviendrons, enfin les professionnels du secteur conviendront, que nous n'avions pas vraiment de solution et j'espère que ces articles qui sont amenées, c'est-à-dire les articles 664-104 à 664-110 qui se trouvent aux pages 33 à 35 de ce projet de loi et concernant les copropriétés en difficulté seront en mesure d'aider à trouver une solution provisoire à un certain moment et certainement permanente. Si nous nous référons aux

articles 664-104 à 664-110, nous verrons que des propositions ont été faites afin de résoudre les problèmes des copropriétés en difficulté.

Je me permettrai, M. le président, de me référer aux articles 664-95 et 664-96 du présent Code Civil qui sont amendés aujourd'hui, c'est-à-dire des articles qui concernent les terrains provenant des morcellements. Aujourd'hui, lorsqu'à la suite d'un morcellement des terrains et des équipements communs doivent faire l'objet d'une gestion collective, les propriétaires de ces lots, des lots je veux dire issus de ce morcellement, ils sont de plein droit groupés en une association syndicale qui a la personnalité civile et cette association, d'après la loi telle qu'elle est aujourd'hui, a notamment pour objet l'acquisition, la gestion et l'entretien des terrains et éléments d'équipements communs ainsi que leur scission éventuelle à une personne de droit public, s'il y a lieu.

Alors, c'est ce qui change aujourd'hui, avec la Section Première – AA, tout ce qui concerne, allons dire, l'association syndicale qui regroupe les copropriétaires de morcellement et qui devra être converti en une association foncière telle qu'elle sera régie par les articles 664-119 à 664-139. Si M. le président me permettait de faire quelques rapides commentaires sur les associations foncières. Alors, d'après le texte de loi, ces dispositions, c'est-à-dire des articles 664-119 à 664-139 du Code Civil mauricien tel qu'elles sont proposées aujourd'hui dans ce projet de loi, elles s'appliqueront de plein droit non seulement des ensembles immobiliers mais aux morcellements qui sont composés de plusieurs terrains ou volumes bâtis ou destinés à l'être à titre de propriété individuelle ou de copropriétés et comportant des terrains, volumes, éléments ou équipements qui quel qu'en soit le propriétaire sont mis à disposition de chacun des propriétaires ou copropriétaires ou d'une partie d'entre eux. La gestion plutôt de ces terrains, des volumes, éléments ou équipements mis à la disposition des propriétaires ou copropriétaires ou d'une partie d'entre eux sera donc assurée par cette association foncière qui donc est une association réelle de propriétaires dotés de la personnalité civile et a pour objet l'appropriation et/ou la gestion des biens.

Les droits et obligations qui découlent de la constitution de l'association foncière seront attachés à tous les immeubles compris dans le périmètre de l'association et ces droits et obligations suivront ces immeubles en quelques mains qu'ils passeront et ce jusqu'à la distribution de l'association foncière ou la réduction de son périmètre. Ces droits et obligations, M. le président, s'imposeront donc à tout propriétaire ou copropriétaire de biens situés dans le périmètre de l'association foncière. Les statuts de l'association foncière sont établis par eux-mêmes. Les statuts définissent le nom, l'objet, le siège de l'association, la liste

des immeubles compris dans son périmètre et celle des terrains, volumes, éléments ou équipements entrant dans son objet ou susceptible d'y entrer.

Il faut aussi savoir qu'en vertu des articles 664-119 à 664-139, les ensembles immobiliers qui se trouveront de plein droit régis par l'association foncière auront un cahier des charges pour les régir et ce cahier des charges devra être rédigé par un notaire. Je ne parle pas ici pour ma paroisse évidemment. Ceci dit, M. le président, je dois aussi ajouter une petite note qui, à mon avis, est importante dans la mesure où c'est une autre dérogation. J'ai parlé des dérogations, j'ai expliqué que donc l'article 664, dans son intégralité, a une nature contraignante, que cet aspect contraignant connaît quelques exceptions aux articles 664-63, 664-64 et 664-65 dans des copropriétés de deux lots à usage d'habitation, de cinq lots à usage d'habitation et de plus de cinq lots à mon usage d'habitation. Il y a une autre dérogation. Cette dérogation existe déjà dans l'article 664-1, deuxième alinéa de la présente loi.

En effet nous disons que l'article qui régit la copropriété s'applique aux immeubles bâtis ou aux groupes d'immeubles bâtis mais l'article 664-1 alinéa 2 stipule que les dispositions de cette section, qui fait que la copropriété régit les immeubles bâtis aux groupes d'immeubles bâtis ne s'applique pas lorsqu'elle est déclarée inapplicable par une décision du ministre responsable du logement publiée à la Gazette du Gouvernement. Elle ne s'appliquera pas donc suite à une publication dans la Gazette du Gouvernement, d'une déclaration, d'une décision du ministre responsable du logement qui déclare inapplicable aux immeubles bâtis ou groupe d'immeubles bâtis par autre ou à l'initiative du Gouvernement ou d'une collectivité publique ou d'une institution publique. A ce moment-là, ces immeubles ou groupes d'immeubles seront régis par des dispositions d'un règlement ou d'un cahier des charges qui peuvent être établies selon le cas, par le Gouvernement, la collectivité publique ou l'institution publique. Aujourd'hui, dans le nouveau texte qui nous est proposé ce soir, je suis tombé sur l'article 664-139, le premier alinéa vient nous parler de la nature contraignante de la Section Première – A et de la Section Première – AA du projet de loi. Il est stipulé à l'alinéa 2 de l'article 664-139, je lis :

« Cependant elles peuvent être déclarées inapplicables par une décision du Ministre responsable du Logement publiée à la Gazette du Gouvernement, aux immeubles bâtis ou groupes d'immeubles bâtis par ordre ou à l'initiative du Gouvernement, d'une collectivité publique ou d'une institution publique: ces immeubles ou groupes d'immeubles seront alors régis par les dispositions d'un règlement ou d'un cahier des charges établi, selon le cas, par le Gouvernement,

la collectivité publique ou l'institution publique qui a donné l'ordre ou pris l'initiative de la construction. »

Je comprends donc que nous avons gardé pour les besoins administratifs cette provision qui permet au ministre des Terres et du Logement de déroger à l'impératif des règlements de l'article 664 à l'article 664-140.

Je souhaiterais ajouter, M. le président, quelques points additionnels, premièrement, le formalisme. Si je peux me référer à l'article 664-26 du projet de loi, M. le président. A l'article 664-26, nous nous attaquons dans cet article à ce formalisme rigoureux, complexe et souvent qui a été sujet à manipulation par certains copropriétaires qui utilisent ce formalisme obligatoire de par les articles existants mais qui vont maintenant changer. L'article 664-26 nous dit que dorénavant les convocations qui contiennent les lieux et heures des réunions, ainsi que l'ordre du jour et le projet de résolutions pourront être adressées par tous moyens, notamment électroniques, prévus par le règlement de copropriété, permettant d'établir la preuve et la date de sa réception par le destinataire.

Ce qui s'est passé, c'est que très souvent auparavant, un copropriétaire pouvait se cacher derrière ce formalisme rigoureux et prétend ne jamais avoir reçu les convocations et ensuite contester toute décision prise. Aujourd'hui, je pense qu'il est opportun enfin de venir en l'an 2018 avec une possibilité de convoquer quelqu'un, d'inviter quelqu'un à une réunion de l'assemblée générale par voie électronique. Donc, je pense que nous sommes là dans un cadre de progrès, et j'ajoute que non seulement ce genre de progrès nous permet d'éviter les disputes injustes et peu nécessaires de certains qui agissaient de mauvaise foi mais ce nouveau règlement nous permet de réduire des dépenses quasiment inutiles.

L'autre aspect des choses que je souhaiterais toucher concerne l'article 664-2 du projet de loi. L'article 664-2 nous dit que –

« Le statut de la copropriété s'applique, pour les immeubles bâtis existant, à compter du premier transfert de propriété d'un lot. Pour les immeubles à construire, le transfert de propriété des lots se produit immédiatement lors de la vente, mais le fonctionnement de la copropriété découlant de la personnalité morale du syndicat ne prend effet que lors de la livraison du premier lot. »

Je m'explique. Nous achetons une unité, un bureau ou un appartement dans un projet immobilier qui n'a pas encore débuté. En conséquence, lorsque nous l'achetons sur un plan, nous payons par étape et nous apprenons aujourd'hui que nous sommes propriétaires aussitôt

que nous signons l'acte de vente. L'immeuble n'est pas construit, l'immeuble n'a pas débuté, mais si nous signons l'acte de vente, nous sommes propriétaires d'un appartement qui n'existe que sur du papier. Mais, nous dit le texte de loi, alors que le transfert de propriété se produit immédiatement lors de la vente, le fonctionnement de la copropriété découlant de la personnalité morale du syndicat ne prendra effet que lors de la livraison du premier lot. Donc, même s'il y a vente au moment de la signature de l'acte de vente malgré le fait que l'appartement ou le bureau n'existe pas, l'acte de copropriété prendra effet à partir de la livraison du premier lot.

Mais j'ajoute ici une difficulté que j'ai rencontrée, la livraison d'un lot se fait après procès-verbal de livraison, parce que comme quelqu'un achète sans avoir vu, quelqu'un achète sur papier avec des détails bien sûr, avec une notice technique qui dit tout ce qui doit être contenu pour s'assurer que quelqu'un a ce qu'il a acheté, la livraison se fait après un procès-verbal entre les parties. Alors, je dois dire que dans mon cas, le procès-verbal de livraison n'a jamais été signé parce qu'on n'est pas d'accord sur ce qui est livré comparé à ce qui a été agréé lors de la signature de la vente. Je me retrouve en train d'être dans une situation où on me réclame les charges syndicales alors que je n'ai même pas pris livraison de l'unité. Donc, ce qui veut dire que c'est pour cela que nous avons besoin d'un système qui soit clair, qui soit précis et qui soit applicable rapidement.

Alors, en conséquence, M. le président, avant de terminer, je vais ajouter que peut-être un des aspects très novateurs et très importants pour le besoin de la copropriété, c'est l'abaissement, quelque chose de très important, c'est la simplification et l'abaissement des majorités. Auparavant, quand vous convoquez une l'assemblée générale des copropriétaires, vous vous retrouvez dans une situation où très souvent, l'assemblée doit être renvoyée, premièrement parce que vu que le système de convocation est complexe et que plusieurs copropriétaires peuvent se cacher et ne pas prendre possession de la convocation vu que plusieurs copropriétaires peuvent trouver toutes sortes de prétextes pour ne pas être présents. Donc, très souvent les majorités requises pour la prise de décision n'étaient pas obtenues. Donc, en conséquence, nous devons féliciter l'Attorney-General, ministre de la Justice, des droits humains et des Réformes institutionnelles que dorénavant avec l'article 664-36, lorsqu'un projet qui nécessite une certaine majorité n'est pas obtenu, mais que le projet a recueilli au moins un tiers des voix de tous les copropriétaires, la même assemblée peut décider sur la majorité qualifiée de procéder à un second vote.

Alors, je dirai aussi que pour rejoindre l'honorable Ramano, je crois que nous devons convenir que définir les parties communes comme parties communes générales, parties communes spéciales et parties communes à jouissance privative est quelque chose qui existait au fait. Nous avons passé notre temps, en tant que fidèle rédacteur de l'intention des parties, en tant que notaire à rédiger, au fait, des clauses qui attribuaient des parties communes générales, spéciales et à jouissance privative sans que celles-ci ne soient reconnues spécifiquement d'après la loi. Aujourd'hui, les Articles 664-6, 664-7 et 664-8 viennent certainement amener un progrès qui doit être reconnu.

J'ai constaté que l'*Attorney General* a fait circuler une note pour un amendement en ce qui concerne les rédacteurs de l'état descriptif de division qui, dorénavant, se feront à travers des nominés, d'après la Schedule qui sera faite par l'*Attorney General*. Donc, en conséquence, je pense pouvoir terminer avec l'article 2151 du Code Civil Mauricien qui est le 4^{ème} objet de ce projet de loi et qui concerne, donc, les créanciers privilégiés. Nous constatons que le syndicat de copropriétaire mentionné à l'article 664-17, l'association foncière mentionnée à l'article 664-123 et l'association foncière mentionnée à l'article 664-123 seront les premiers créanciers privilégiés pour les sommes dues par leurs membres au titre des deux dernières années et de l'année en cours.

Sur ce, M. le président, je terminerai en félicitant l'*Attorney General*. Peut-être avant de terminer, il y a une petite chose qu'il faut ajouter, c'est l'équipe qui a travaillé sur ce projet de loi avec l'équipe Mauricienne, avec les membres du Conseil du notariat, je crois que nous avons eu un mélange, un panachage de droit mauriciens, des complications de l'expérience mauricienne, avec l'expertise de ceux qui régissent le droit de la copropriété dans un pays où une unité résidentielle sur quatre est régit par la copropriété. Je crois qu'ajouter à cela, nous avons eu des consultations avec la *Law Society*, la Chambre des notaires, et la cerise sur le gâteau, l'expertise de l'*Attorney General* et de son équipe au parquet.

Sur ce, on ne peut que les féliciter et de vous remercier pour votre attention, M. le président.

The Deputy Speaker: Thank you, hon. Member. I think you will agree that debates on this present legislation have been very enriching. But I think it is a convenient time to break for dinner. I, therefore, suspend the sitting for 1 hour and 15 minutes. Thank you.

At 7.54 p.m., the sitting was suspended.

On resuming at 9.16 p.m. with Madam Speaker in the Chair.

Madam Speaker: Please be seated! Hon. Roopun!

(9.16.p.m.)

The Minister of Arts and Culture (Mr P. Roopun): Madam Speaker, let me join my voice to commend and support the hon. Attorney General for the presentation of this Bill.

I must say that during the last two weeks, fundamental changes have been brought to our Civil Law regarding property. Last week, we dealt with the Acquisitive Prescription Bill with a view to curbing abuses which we have been witnessing when individuals illegally prescribed land. This was being done because of the very simple procedure through which prescription could be done. We strengthened the law; we made it more cumbersome. This week we are dealing with yet another aspect of our property law regarding *copropriétés* which is being amended. I will rather say improved, reactivated and modernised.

In fact, Madam Speaker, we know that in Mauritius, owning an immovable property is something which all of us aspire. In terms of home ownership, according to statistics, we are well over 90% and it is the aspiration of everybody that they wish to own a house. But yet, in terms of population density, we are one of the highest and, according to Wikipedia, we are 20th worldwide. Just to say that issues regarding *copropriétés*, people owning lots, instead of plot of land, is likely to increase in the future. We should, for various reasons, encourage such types of ownership. We know that it is no more sustainable to build horizontally and we should make efficient and better use of our scarce land resources. It is also most economical if we take into consideration the price of immovable property, of plot of land. And also, perhaps it is more convenient in certain aspects, with an ageing population, when it is so difficult nowadays to find a plumber, a gardener, we feel that it is becoming more and more in our tradition to live in apartments.

When we had our law in 1978, I must say, that the culture of living in *copropriété* was not there. The law existed, but we have very few such immovable properties. And also, perhaps we were not really prepared to make such a big shift in our way of life. Now it is, I must say, through economic imperative that we are bound to move in that direction.

But before moving, in fact, to the *copropriété*, Madam Speaker, it is good that I say a few words on another concept of our law, which is *l'indivision* or co-ownership of immovable property.

In our Civil Code, we have another Article which deals with *l'indivision*, namely Article 812. Here, when we talk of co-ownership of an immovable property, it is when two or

more persons enjoy a right of ownership at the same time over the same immovable property. Such a situation may arise in various circumstances. It may be between two partners in life, family members who become co-owners after the death of their elders in a succession or they may also buy in *indivision* in the sense that we can have some disguised *morcellements* where we end up having more than one individual owning right. But what is important to note – and there is very often misconception in the public – is that whenever people are on *indivision*, they are, in law, treated as being entitled to the whole property, and all the co-owners are together and indistinctly considered as owners of the whole property. This, in fact, has given rise to so many litigations.

As I stated, there is a lot of incomprehension because this aspect of the law was not grasped properly. Just to give an example; if four persons are co-owners of an immovable property, this does not mean that each one has got a right over one quarter of the property. They have got the same rights over the whole property, and undoubtedly this gives rise to lot of litigation, and whatever they need to do, they have to do it jointly. Nobody can take any measures without the support and consent of the others and for any matter; for example, if they need to build a house, they will not be able to have a building permit without the consent of the three others, and this is where they end up building without permit or building over a plot of land which is more than their rights and then we end up in lot of litigation.

I am glad today that, under Article 552-1, we are in a certain way formalising the division of a property vertically. Previously, under our law, we could divide a property in lots; each lot separated from the other. And though in practice, we did have like a succession where somebody occupying the ground floor and another one occupying the first floor, this was not dealt with specifically in our legislation, and yet this is given legal recognition today. This enables, as we have it in the new Article 552-1, the establishment of an « *état descriptif de division* » in two or more lots. I just hope that with this new provision, more *co-indivisaires* will be prompted to go and regularise and formalise their rights, and thus avoid a lot of hassle. Then they can, of course, have the right to develop their lot in the way they want.

Just to answer a query from hon. Baloomoody who asked what happens if there are any issues, my humble view is that such situation, though not under any provision of the Civil Code, was dealt with by Article 555, which dealt with whenever somebody constructs *de bonne foi*. I believe that whatever provision we have under Article 555 and whatever case law we have can be of help to deal with any such situation that may occur in the future.

I am glad that, from 1978, where we had a very simplistic view about *copropriété*, when a one size fits all approach was adopted, where we had divided a property merely between two types, *partie commune and partie privative*, we have graduated and now we have a large panoply of different concepts which are being included in our law and which are designed to achieve more flexibility and to adjust to the reality of the local real estate context, starting from the very case where we have got two individuals who are in *copropriété* and up to a very complex situation where we have got different immovable properties which are being in some way or another administered or are in such a way that they are using certain infrastructure in common. Just to mention a few, in addition to the *partie commune et partie privative*, we have yet a new concept of *partie commune speciale*, which is *partie commune*, which is designed to a group of individuals over which there can be some *jouissance privative*. I understand from hon. Ramano that such concepts were, in fact, being used through convention whenever *copropriété* was established, but it is good that we are including it once again in our legislation.

Now, we are having various types of possibilities: two lots which can be for *usage d'habitation, de commerce ou de bureau*; five lots for *usage autre que résidentiel*, and then we move to some other types. But what is more important is that we are providing a very simplistic regime, where it is not so complicated for small properties which are being divided and where it is much easy for us to deal with.

Finally, we are also coming with *des syndicats secondaires*, where within a whole complex, we can have some sub syndicates dealing with a few parts. This also is a very important concept, where it enables, for example, to manage certain facilities which are available to a group of co-owners. Just to take an example, they may be part of a big development where we have got different facilities like a gym or a pool. This will enable the administrating of these parts with other parts where we may not necessarily have such facilities. This will also give the opportunity to different types of people cohabiting in the same land development and this will also cater for a more inclusive development in terms of whatever development may come in terms of land development.

I am glad also that we have included a lot of safeguards. I believe that the hon. Attorney General did mention a few. The fact that even if you own more than 50% of the rights, you will not be able to impose yourself nor are you going to make an abuse of your power of voting, and whatever you have which exceeds 50% will come back to 50%, so that

you are at par with the other co-owners, in a sense that you will need to have the consensus of other co-owners to be able to administer the property.

In the same vein, we have included the possibility of delegation to vote, which means that we cannot just take proxies to acquire more rights, and then, to impose our own right on the others where the number of proxies, including your own power to vote, should never exceed more than 20%. In addition, we have also included that no syndic or any of his close relative can be given proxy in the sense that they should be altogether outside any decision making process that may be at the level of co-owners. I am also glad that we have included a specific provision so that any defaulter who does not take his responsibility, in terms of contribution to the charges to which he has to contribute, has no right to vote. I hope that this is going to be a deterrent and encourage any owner within a *copropriété* to assume his responsibility in terms of contribution. With the same idea in mind, the right of the syndic to create a *hypothèque légale* on that property - I heard hon. Baloomoody stating that perhaps it is a bit too harsh, we should come with a *mise en demeure* and so on.

Even if it is not there, I believe that there will be no syndic who is just going to go out of *caprice* and put an *hypothèque légale*. It is there and, of course, you cannot just act unreasonably otherwise you are going to expose yourself to an action in damages. I do not see any syndic just out of *caprice* putting an *hypothèque légale* for some other reason other than when there is an absolute necessity for doing so. We know also that whenever the sale of a property takes place, all charges has to be cleared and this concept is even further strengthened where they are given *un privilège spécial* over whatever is due to the syndic.

In our concept of law, whatever you take for the *conservation* of a property should be given priority in terms of reimbursement. It is this concept that is being applied here, which means that we have got four layers of protection, so that we ensure, first of all, that you assume your responsibility and, at the same time, giving opportunities, different instruments which are available to the syndic to ensure that payment is done by any other *copropriétaire*.

Insofar as the syndic is concerned, there is now a large panoply of possibilities. The syndic may be a person (physique), an individual, it can be *une personne morale*, which means that we can encourage companies to be established which can find a possibility of business by trying to administer different properties and do it in a more professional manner.

And even there, we have got the possibility of having *un syndic bénévole* and whoever is not a co-owner in that property cannot be otherwise than a *syndic professionnel*. If

you are administering an apartment or a group of immovable properties and you are one of the co-owners, then you are not considered to be a *syndic professionnel*, but once you are an outsider, you are deemed to be a *syndic professionnel* and new appointment should be done in a transparent manner. You are not just going to have somebody who is going to choose left and right any of his acolyte or friend to put there. This was something which happened with promoters in the past. We are doing away with that and, over and above, they have to give a *garantie de remboursement des fonds*, which means that an equivalent guarantee they should give for whatever amount they are about to administer. This is insofar as syndic professional is concerned.

I understand that hon. Baloomoody mentioned about abuse by syndic and he asked about who is going to control, whether they are spending such and such amount and by whom. But we have in our law a mechanism, which is *Le Conseil Syndical*, as provided for in Article 664-56 which is nothing else but an *organe de surveillance*. This *organe de surveillance* is here to work together with the syndic, to assist the syndic but, at the same time, to supervise and oversee whatever the syndic is doing.

Hon. Baloomoody also mentioned about the change insofar as *quote-part des charges* is concerned where there should be unanimity. Hon. Ramano also mentioned that there is no mechanism, how we are going to establish this *quote-part* and this is in fact a very big issue. We know the problem, but nobody here or elsewhere has the solution. But what solution is provided for in the law is that it can be changed unanimously by the co-owners. Because bear in mind, decreasing the charges of one means that you are increasing the charges of the others. It is more or less the same because it is a fraction of the charges that each and every one has to pay. It should be unanimous. But we have, in our law, provision also under Article 664-71, where you can go to the Judge in Chambers. If you feel that you are being penalised and whatever you are bound to pay, is excessive, the Judge in Chambers can try to change this *quote-part*, but there, of course, it is not going to be done just for the sake of it. I believe, under the law, it should be a certain amount. You cannot modify *les bases de répartition des quotes-parts* unless it is *supérieure de plus d'un quart*, or if somebody is paying an amount *inférieur de plus d'un quart*, which means that it should be quite manifest in terms of amount. Then, of course, the Judge is going to change it, but the fact remains that everything is done in a very transparent manner. *L'acte constitutif* is something which is open to anybody who has got right over the property. And, of course, we should assume that

whenever he enters into a contractual obligation, he will take precautions to ensure that his rights are being respected.

I am glad also, Madam Speaker, that through Article 664-139, all the provisions which we are voting today, except, of course, for those who are exempted in cases of two lots or five lots, etc., all these dispositions, which we are voting today, are *d'ordre public*. They are *impératives* as we put it and once proclaimed, it is to apply immediately to any establishment, any new *copropriété et ensemble immobilier* that is being set up. This is also a very good thing to ensure that whatever is being done, as from now is going to be within the legal framework and time is given also for all immovable properties which are already inexistent to comply within a reasonable time.

Madam Speaker, the situation has evolved. We have come with improvements which are here to answer to new challenges and, in certain instances, we are simplifying for small properties, but in a more general way, we are enriching our law of *copropriété* so that to cater for the present situation and hopefully also for future developments in our country. We are also clarifying lots of issues while being flexible and trying to adapt to the reality of the grant.

These amendments go in the right direction and we just hope that it is going to answer to all the various circumstances which are bound to occur in the future, but, of course, if there is need to further improve it, I am sure that we are going to come with further amendments.

I will end, Madam Speaker, by just saying that there is no law which can be perfect so long as we do not have this culture. We can come with any law, but it is up to all the population embracing this culture of living in flats. I know of so many cases where, I must say, people of different social background, even if they can afford to pay, at times, they are very reluctant to contribute to whatever charges they are bound legally to pay and I just hope that with these different layers of way of administering our property, this is going to encourage the development of vertical building and also for us to live together harmoniously.

With these few words, Madam Speaker, once again, I join my good friend to commend this Bill and on one thing, I am glad also that whatever we did this week and whatever we did also last week was done after intensive consultation. This is something which I appreciate that just like the Bill on prescription was widely circulated among all stakeholders, this also has been circulated, which means that we have unanimity within the legal profession, within all professionals. And I am glad also that from the tenure of the

speeches of Members from the Opposition, they are all agreeable and we are on the same wavelength. I am sure that this is a very good sign for the future of this Bill.

Thank you, Madam Speaker.

(9.47 p.m.)

Mr A. Ganoo (First Member for Savanne & Black River): Madame la présidente, je me limiterai sur qu'une des propositions énoncées dans le projet de loi devant la Chambre aujourd'hui pour faire état de ce que représente pour moi cet aspect des propositions énoncées dans le projet de loi et pour également exprimer quelques interrogations que j'ai sur cet aspect des choses.

Madame la présidente, la propriété foncière a connu ces dernières décennies, des profonds changements en France par le billet du concept de volume immobilier qui est la faculté de diviser le sol en volume par un procédé géométrique en trois dimensions : la longueur, la largeur et la hauteur. La propriété foncière s'est effectivement transformée. Le concept du volume immobilier s'est donc inscrit dans le schéma du Code Civil et aujourd'hui, nous empruntons la même voie.

Ce concept a certainement ouvert des nouvelles perspectives et il serait utile de comprendre ce qu'est le volume immobilier. Il est un mode de division de la propriété foncière différent de la copropriété par le fait qu'il ne comporte pas forcément des parties communes et pour d'autres raisons sur lesquelles je reviendrai.

Le volume immobilier fut le *brainchild*, le bébé du Doyen Sabatier qui conceptualisa cette œuvre après la deuxième guerre mondiale. Il initia ce concept et fut le premier à proposer d'appréhender le sol comme un volume divisible en hauteur, formant des cubes d'air et à promouvoir cette approche.

Au début, Madame la présidente, cette idée d'une propriété immobilière, s'étendant à un espace immatériel au-dessus du sol, fut l'objet d'un scepticisme parmi les juristes. Avec le temps, cette nouvelle technique juridique nourrit d'une approche pragmatique et scientifique, devint un outil utile et efficace aux besoins des promoteurs. De quoi est-on propriétaire lorsqu'on est propriétaire d'un volume ? Même si notre loi n'est pas suffisamment explicite, elle se définit comme la seule perçue en volume par l'intermédiaire d'un procédé géométrique en trois dimensions comme je viens de le dire - la longueur, la largeur et la hauteur.

Comme je disais donc, la propriété volumique a pendant bien longtemps agité les juristes et provoqué encore des discussions, et provoque encore des discussions. En quelques mots, il est possible d'affirmer que le propriétaire d'un volume est propriétaire d'un espace délimité et localisé en même titre que le propriétaire d'une parcelle de terrain. Le volume donc est une espèce exprimée en trois dimensions tandis que la parcelle, elle, est exprimée en deux dimensions. Néanmoins la principale difficulté posée par le volume est en réalité un espace qui n'est pas constituée de matière solide comme le sol. Le dessus ne peut être touché physiquement et sa délimitation ne peut être matérialisée par une borne comme le bornage classique.

En effet, la division du sol est une opération géométrique dans tous les sens. La propriété d'un espace volumique est ainsi semblable à celle d'une surface. Le volume évidemment pourra être vendu comme un bien individualisé. L'intérêt et l'avantage de la division en volume est l'optimisation de ressources financières. En effet, un seul, qui se prête à une division verticale, offre des opportunités du développement supérieur à la division des parcelles comme nous le savons.

Cette intervention législative d'aujourd'hui, Madame la présidente, est sans aucun doute une aubaine, un cadeau au promoteur incluant ceux des *smart cities*, et touche à peine les petits gens. Il est vrai d'affirmer que ce mode de la division de la propriété s'est affirmé au fil des temps comme répondant à un vrai besoin pour les ensembles immobiliers complexes et ce régime de volume qu'un nouveau et récent qu'il soit s'apparente à notre droit de superficie ou notre droit de jouissance que mes confrères comprendront qui est un droit réel du preneur et qui consiste en une distinction entre les propriétaires du sol et les propriétaires de construction ou de plantation.

Madame la présidente, ce concept de volume tant bien étant progressiste quel a été, s'est heurté à des contraintes au fil du temps, a été objet de questions et d'interrogations diverses. Par exemple qu'en est-il de la taxe foncière ? Sera-t-elle perçue au titre de la fraction de la propriété représentée par le volume, ou une fois la construction réalisée. Deuxièmement, il n'est pas clair si le nouveau régime de volume et copropriété même s'il partage un objectif commun, son concurrent ou son complémentaire. Je m'explique, Madame la présidente.

Dans un règlement de copropriété se trouve l'état descriptif des lieux et en deuxième partie le règlement de la propriété proprement dit. Par contre, dans le cas de la division en

volume d'une façon similaire, on aura pour la division des lots un état descriptif de division volumétrique, c'est-à-dire, un géomètre établira les différents lots de volumes par rapport à un certain nombre de codes. Cet état descriptif sera enregistré, alors que le propriétaire pourra vendre de façon séparé chacun des lots de volumes, mais quand est-il du fameux *pin number*? Je me pose la question.

Chacun des propriétaires de volume a un droit de propriété indépendant sans relation avec les autres covolumiers mais cependant il y a des relations nécessaires qui vont se créer entre les différents propriétaires de volume dans la pratique. Donc, en fait, subsistera un équivalent des parties communes et donc il va falloir recours de nouveau, un régime de copropriété. Mais je vous pose la question, ne voulait-on pas justement éviter un tel régime. Donc, pour régler les relations entre les différents propriétaires de volume dans notre projet de loi, on nous propose la création de servitudes perpétuelle, servitudes de passage et de canalisation. Parce que je lis l'état descriptif de division inclue ou est complété d'un acte constitutif de servitudes pour tenir compte de l'imbrication et de la superbe position des volumes créés.

Donc, on nous propose la création des servitudes perpétuelles; existera encore un équivalent des parties communes, et je me pose la question. Il va falloir oui ou non avoir recours de nouveau à un régime de copropriété et en plus Madame la présidente, il peut y avoir aussi des équipements communs aux différents volumes. Que faire alors? Pourrait-on alors utiliser d'autres formes d'association syndicale pour régler les relations collectives, je pose la question encore une fois.

En guise de conclusion, Madame la présidente, pour moi, les limites d'un régime de la copropriété ont constitué les limites, les contraintes du régime de la copropriété pour constituer une de raisons importantes d'un développement de la division en volume. Le régime de la copropriété diffère radicalement à la technique de la division en volume parce que la première ne repose que sur la conversion, l'accord des parties. Par contre l'adoption d'une division en volume présente comme avantages celui d'une grande liberté dans la mise en place de l'organisation de cette volumétrie, liberté tant recherchée pour les promoteurs des projets complexes eu égard aujourd'hui de la densité, de la mixité du développement de notre pays. Et c'est pourquoi sur cette note, je voudrais souhaiter bonne chance à ce projet de loi qui est certainement, malgré ses contraintes, susceptibles à contribuer au développement foncier de notre pays.

Je vous remercie, Madame la présidente.

Madam Speaker: Hon. Gobin!

(9.59 p.m.)

The Attorney General, Minister of Justice, Human Rights and Institutional Reforms (Mr M. Gobin): Madam Speaker, it is with a great pleasure that I have to rise once again to sum up.

I say great pleasure because, first of all, I wish to thank all the eight hon. Members who have intervened on the Bill on both sides of the House for their positive contributions. In my humble opinion, all the points raised from one side have already been answered from the other side, and I do not have to come back to those points raised. So, this is why I say it is with pleasure that I have to rise again because I believe I don't have to propose any counter arguments, with the counter arguments having already been put forward by my learned seniors, colleagues, able and learned friends on this side of the House. But, nevertheless, I wish to reiterate my thanks to all hon. Members for their positive contribution.

However, I want to address, once again, hon. Members and the Nation through your Parliament TV, Madam Speaker. I say 'once again' because last week, this is exactly what I said – I want to address the Nation through your Parliament TV. And I know why I am saying 'your Parliament TV', because it is yours.

Last week, with the blessing of the hon. Prime Minister, this Government brought about fundamental changes in the Acquisitive Prescription Process in this country. We have reformed the 1958 legislation. We have brought meaningful change to the lives of the citizens of this country last Tuesday. This Tuesday, once again, with the blessing of the hon. Prime Minister, we are bringing meaningful change to a regime which dates back to 1978. And I want to stress that the blessing of the hon. Prime Minister does not only come from the blessing he gives from Cabinet because he had announced that the regime change on *copropriété* will come, and he had announced that in the Budget Speech of this year. Here, we are bringing, I reiterate, meaningful change in the lives of the citizens of this country by way of changes to *copropriété* and *association syndicale*. This is what we are modestly doing on this side of the House.

This is my second point. We believe it is an illustration of how we are bringing meaningful change in the lives of the citizens of this country. This Bill is an illustration of a multidisciplinary teamwork. We have behind me, Madam Speaker, not only officers of the

State Law Office, of the Economic Development Board, but also officers from the Ministry of Housing and Lands who have been at the forefront of a consultation process with all practitioners, be it legal practitioners or non-legal practitioners in the real estate business. We have received representations from even individuals. I have personally received representations from individuals. This consultation process has led to the preparation of this Bill and the consultation process was even taken outside the territory of Mauritius when we had recruited an international consultant after an international call for proposals. This is what I want to highlight by way of summing-up.

Now, I am not only talking about last Tuesday and this Tuesday, I for one know there are many more such legislations to come, not only in this session, but in the forthcoming sessions of next year to bring once again meaningful change in the lives of the citizens of this country.

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

Question put and agreed to.

Bill read a second time and committed.

COMMITTEE STAGE

(Madam Speaker in the Chair)

THE CODE CIVIL MAURICIEN (AMENDMENT) BILL

(No. XIII of 2018)

Clause 1 ordered to stand part of the Bill.

Clause 2 (Code Civil Mauricien amended)

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

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

“(a) in subclause (b) (i), in the proposed new Article 664- 13 –

- (i) By deleting the words “étant soit un arpenteur au sens du Land Surveyors Act, un architecte au sens du Professional Architects’ Council Act ou un Notaire au sens du Notaries Act,”;
- (ii) By adding the following new *alinéa* –

L'Attorney-General peut, par voie de règlement, désigner la catégorie de professionnel compétent mentionné à l'alinéa 1.

- (b) in subclause (g), by deleting the words “ article 2251” and replacing them by the words “article 2151”.”

Amendments agreed to.

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

Clauses 3 to 4 ordered to stand part of the Bill.

The title and enacting clause were agreed to.

The Bill, as amended, was agreed to.

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

Third Reading

On motion made and seconded, the Code Civil Mauricien (Amendment) Bill (No. XIII of 2018) was read a third time and passed.

ADJOURNMENT

The Deputy Prime Minister: Madam Speaker, I beg to move that this Assembly do now adjourn to Tuesday 30 October 2018 at 11.30 a.m.

The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare (Mrs F. Jeewa-Daureeawoo) rose and seconded.

Question put and agreed to.

Madam Speaker: The House stands adjourned.

MATTER RAISED

(10.08 p.m.)

BASIC WIDOW'S PENSION – RELIGIOUS MARRIAGE

Mr S. Mohamed (First Member for Port Louis Maritime & Port Louis East): Madam Speaker, I thank you for giving me the opportunity to raise a specific matter in spite of the late hour. I shall endeavour not to be very long and go straight to the very important

issue which I am about to raise. As the *libellé* is very clear, the problems being faced by people who are married religiously to obtain a widow pension and all other related benefits.

As a matter of introduction, allow me to refer, Madam Speaker, to an extract of the Sessional Paper No. 6 of 1965 of the Mauritius Constitutional Conference of September 1965 and the words of as he was then hon. Abdul Razack Mohamed. I will just, with your permission, quote what he said because it is of direct relevance to the issues today. I quote –

“We are not against any political and constitutional progress of our country provided such progress does not mean the oppression of any community in Mauritius”

And he was saying that specifically with regard to rights that needed to be safeguarded for all communities. And specifically, in that particular sense, what he was referring to, was not only election representation, but also what he was referring to, is religious marriage of all communities in Mauritius. I myself raised this issue in this Assembly back in 2010 when I was still a backbencher. When I raised that particular issue here, it was about women specifically who were facing very difficult moments. The difficulty they were facing was precisely that they were married religiously and when the husbands were passing away, a lot of them had children, a lot of them found themselves in a situation where the very basic rights they thought they were entitled to, and here, I mean the right to basic widow’s pension, they were not entitled to it. There are, in actually fact, through my research, four categories of situations dealing with the same issue of widow’s pension for women who are married religiously only. I shall expatiate and explain myself.

I also raised this issue, as I said, in 2010 and following raising this issue, I was then made Minister of Labour in the next election. We were in the same Cabinet, the Minister will recall. During those times, he will also recall - if I am not mistaken, we were still in Cabinet at the same time – that there was a Ministerial Committee that was set up and it was chaired by the then Minister of Social Security, National Solidarity and Reform Institutions, the then hon. Mrs Bappoo. It was precisely an Inter-Ministerial Committee on religious marriage that was set up at my request and it was approved by the whole of the Cabinet. I recall that we were in the same Cabinet in those good days.

When this Committee was set up, Madam Speaker, there were certain issues that were raised in that Committee. Here, allow me to very briefly *récapituler* what the situation was and is today. There was an amendment that was brought to the Civil Status Act on 13 November 1987. The Muslim Religious Marriages ceased to be recognised, because it was

recognised before, and the concept of surviving partners of such marriages no longer existed as from the amendment that was brought to the Civil Status Act on 13 November 1987.

(Interruptions)

Madam Speaker: Please!

Mr Mohamed: I do not want to disturb anyone. On 21 December ...

(Interruptions)

Maybe my friend is not realising that his voice is quite strong and is being carried, but it does not matter!

On 21 December 1990, the Civil Status Act was, again, amended and the Muslim Religious Marriage was reintroduced without retrospective effect. Consequently, Muslim Religious Marriages celebrated between 13 November 1987 - that is the important part - and 21 December 1990, were not recognised by law and the surviving partners of such marriages were not legally entitled to widow's pension.

In August 1997, hon. Razack Peeroo, then Attorney General, in a letter addressed to the then Minister of Social Security advised the following -

“That religious marriages celebrated between 13 November 1987 and 21 December 1990 were legal and surviving partners of such marriages are entitled to the Basic Widow's Pension.”

I shall here table a copy of that advice tendered by the then Attorney General. I say it again, he said in his advice that Muslim Religious Marriages celebrated between 13 November 1987 and 21 December 1990 were legal and surviving partners are entitled to the BWP.

In August 1998, Judge Ahnee, the former Chairman of the National Appeal Tribunal, ruled that Muslim Religious Marriages celebrated during that specific period, following the amendment brought by the then Prime Minister, Sir Anerood Jugnauth, to the Civil Status Act of 1987, were not entitled to BWP. With your attention, Madam Speaker, I table another ruling of the then Judge Ahnee who was chairing the National Appeal Tribunal, and through his ruling cancelled out all ladies who happened to become widows and who are no longer entitled to the basic widow's pension. The advice of the Attorney General and Judge Ahnee has resulted in similar cases being treated differently. In this decision-making, there needs to be consistency clearly. We cannot have two different classes of widows being treated differently. A policy decision has to be taken by Government. The policy decision has to be

taken regarding religious marriages celebrated during the aforementioned period, precisely between 13 November 1987 and 21 December 1990.

As it stands, Madam Speaker, ladies married between that period, their religious marriage is not recognised. They will knock at the door of the Social Security Office, they will be turned away. Why? Because the law today says that their religious marriage needs to be registered at the Muslim Family Council created at the second when the amendment came in 1990s. Between 1987 and 1991, the Muslim Family Council did not exist. Since it did not exist, there is nowhere that those people married religiously between 1987 and 1990 could have been registered that marriage. Therefore, it is unfair to them, through the operation of an amendment in 1987, that was re-amended in 1990, that now their marriage is no longer recognised, whereas those who are married prior to 13 November 1987, their marriages are recognised. Those who are married after 1990 at the creation of the Muslim Family Council, their marriages happened to be recognised if it is registered at the Muslim Family Council. But it is not for those are getting married to register. The law says -

“It is for the officiating priest...”

The Imam

“...to register it at the Muslim family Council.”

If the Imam does not, they cannot do anything and they are not entitled to the basic widow's pension. So, we have four scenarios. Those married before 1987 with one treatment, those married between 1987 and 1990 with a different treatment and those married after 1991 with two different treatments. Four scenarios concerning religious marriages and the way that each scenario has different solutions, end-games, with regard to widow's pension

So, therefore, what I propose as a solution and I implore that Government looks into it not as a religious issue. I implore that Government looks into this matter as a human rights issue. Our citizens cannot be made to submit to a situation where there is different treatment at different periods of time, as I have explained. It is necessary, therefore, for Government to look into the possibility to amend section 4 of the National Pensions Act to provide for payment for basic widow's pension to those widows who have contracted religious marriage during the period under consideration, or amend the relevant sections of the Civil Status Act to make provision for religious marriages celebrated during period 13 November 1987 and 21 December 1990, because they are in a vacuum. They are treated as though they do not exist.

It reminds me of the speech of Gandhi as when he was a lawyer back in Cape Town in the days. I remember having seen that. When he made his speech and he was saying that the women who were married religiously, either the British Colonial Government in South Africa considered all these people of Indian origin their religious marriage to be valid or not. Because if they did not consider those marriages to be valid, this means that they believed that women were living as concubines with the men and it is, in fact, an insult to all those people who were married religiously.

From those words of Gandhi, it reminds me that today we are facing the same situation in Mauritius, because if those women's religious marriages are not recognised - because they are not recognised through an operation of law of 1987 -this means...

(Interruptions)

I am still within time.

... that we are, in fact, not giving equal treatment in the eyes of the law to those women.

I will here like to conclude on two other issues. Just to help the hon. Minister concerned in trying to convince Government of the importance of what I am trying to raise, I am here going to put in another document, which is one signed by the Acting Assistant Solicitor General, dated 30 May 2003. In fact, in this particular case, it was signed by late S. Bhaukaurally and there was another one signed by the Solicitor General, dated 03 March 2004. There is another document which shows what treatment it was given by the National Pension Appeals Tribunal, where it was said that it should be paid, and this was in 2010, the last Appeal Tribunal, and I will table that.

I would like to finally conclude on a very important issue. I also raised this issue back on 03 November 2015 with the then Vice-Prime Minister, Minister of Energy and Public Utilities, hon. Collendavelloo, pertaining to again this unfairness where a lady was not being able to collect from the Civil Service Family Protection Scheme because her marriage was not recognised.

He said that he thought that my suggestion was a positive suggestion and that he believed that it was deserving of the most serious consideration. Unfortunately, this most deserved consideration, nothing has happened ever since 2015. And I must admit that even the Ministerial Committee - when I was part of Government, we had a Ministerial Committee - nothing happened. So, I here plead. I raised it even on 22 June 2018 and I would pray, therefore, that in the name of human rights for those widows, let us try to put our minds

together in order that we can find a solution to redress this problem because we cannot have citizens of this country being treated differently concerning a same issue just because, at one point in time, there was an amendment to the law that made a real mess of the situation.

So, in the name of those widows who are still suffering today, in spite of the fact that their husbands have contributed to the social security funds, to those orphans who are not being able to benefit anything and are being considered as illegitimate children, I consider, therefore, it fair that we put politics aside and that we try in the name of human rights to bring a solution to those people who are suffering.

Thank you very much.

Madam Speaker: Before you take the floor, hon. Minister, hon. Mohamed, I think you have laid on the Table of the Assembly three documents. I have perused the advice of the then Attorney General to the then hon. Minister of Social Security and National Solidarity in relation to the request for the payment of the basic widow's pension to one person in particular, Mrs B.F.N. I am of the view that it is a privileged document concerning one particular person, whose name is mentioned...

(Interruptions)

Please!

...whose name is mentioned in the said document and, therefore, cannot be tabled. However, you may hand over that document and the two other documents to the hon. Minister for his perusal.

(10.24 p.m.)

The Minister of Social Security, National Solidarity, and Environment and Sustainable Development (Mr E. Sinatambou): Thank you, Madam Speaker. I would like to say at the very outset that there is absolutely no unfairness in the situation which prevails today as regards the issue raised by the hon. Member.

Let me say that since 1982, when an amendment was brought to section 33 of the Civil Status Act with effect from 01 January 1982, no religious marriage could actually be carried out unless it was preceded by a civil marriage. In this country, no religious marriage can actually be undertaken unless it is preceded by a civil marriage, except for marriages celebrated according to Muslim rites. So, coming here to this House to say that there is an unfairness towards those widows to whom the hon. Member has referred to, I think, is

unacceptable, because every single other woman in this country has to marry according to the religious rites and to the Civil Law of this country.

So, it is totally improper to come before this House and claim that there is oppression, that there is a breach of human rights, that there are citizens being treated differently. In fact, no! I would say that, to this day, in this country, in fact, a preferred treatment has been given to one set of Mauritians because of specific, perhaps religious connotations in their culture. But coming now to say that, therefore, there is something wrong, no! And let me give you the history.

What happened is that under section 33 of the Civil Status Act, therefore, as from 01 January 1982, any religious marriage had henceforth to be preceded by a civil marriage except for marriages celebrated according to Muslim rites, in which cases a civil marriage was not compulsory. That was the state of things as from 01 January 1982. But I think he will appreciate that there can be a different school of thought which believes that everyone should be treated the same. And what happens is that, in 1987, the law was amended by the Civil Status (Amendment) Act of 1987 and Parliament enacted that a Muslim religious marriage, like all other marriages, had to be preceded by a civil marriage. That can be a school of thought adopted by any country.

However, in 1990, section 33 of the Civil Status Act was actually amended again, this time by section 6 of the Civil Status (Amendment No. 2) Act of 1990, and with effect from 21 December 1990 the reintroduction of religious marriages as per Muslim rites was reinstated without compulsory prior civil marriage. So, from some particular view, from a given school of thought, again a treatment, according to the 1982 legislation, was given. However, the effect of that reintroduction of marriage according to Muslim rites, without a civil marriage, meant that those who had been married between the period 1987 and 1990 were not actually legally found to be widows to benefit from pensions.

But even this has been...

(Interruptions)

Yes, it has! Go and read the law! It has been by way of the Social Aid Regulations of 2014, where a new paragraph has been introduced. Paragraph 15 (r) has been added to the Social Aid Regulations of 1984, providing for the payment of a surviving partner allowance, equivalent in amount of the basic widow's pension to a female surviving partner who got

married within the period 1987 to 1990 under Muslim rites without being legally married. So, it is totally inappropriate to come here before this House and say this type of nonsense.

(Interruptions)

I listened to the hon. Member! He should listen to me now.

(Interruptions)

I am not lying! He is the one lying!

(Interruptions)

Madam Speaker: Hon. Shakeel Mohamed!

(Interruptions)

You had the opportunity to present your arguments for 15 minutes. The hon. Minister has now the right to present his!

Mr Sinatambou: Madam Speaker, he just called me 'liar'. I would request that he removes his word.

Madam Speaker: Hon. Shakeel Mohamed, did you say that the Minister is a liar?

Mr Mohamed: I withdraw it, but I still believe it.

Madam Speaker: Okay, you withdraw it. Please!

Mr Mohamed: I still believe it.

Mr Sinatambou: He still believes it; he just said he still believes it.

Madam Speaker: No, but if you withdraw a word, hon. Shakeel Mohamed ...

(Interruptions)

... it is not at this late hour that we are going to argue on this. You should withdraw unequivocally.

Mr Mohamed: I am withdrawing it, but he knows what I think.

Madam Speaker: Okay!

Mr Sinatambou: So, as the matter stands - I repeat it again, if the hon. Member did not understand. As it happens now, regarding Muslim religious marriages celebrated during the period 1987 to 1990, it is worthy to note, Madam Speaker, that the Social Aid Regulations 1984 have been amended with effect from 10 September 2014 by the Social Aid

(Amendment) Regulations of 2014 to include a new paragraph providing for the payment of the surviving partner allowance, equivalent in amount to the Basic Widow's Pension to a female surviving partner who lived with her deceased partner at any time between 13 November 1987 and 22 December 1990, who, actually performed...

Madam Speaker: You have only one minute left!

Mr Sinatambou: ... her marriage under the Muslim rites without actually getting legally married. So, whatever anomaly situation is being referred to is not correct in law, and if I had had more time, I would have taken the time of the House to elicit even more, but, as it is, all the information I have received do so that there is no unfairness, no inhuman treatment. In fact, I will say that preferential treatment is being given to the widows raised by the hon. Member.

I thank you, Madam Speaker.

(Interruptions)

Mr Mohamed: The hon. Minister just said something on widows and keeps saying that preferential treatment is being given to them. They have not asked for any favours. I ask that he withdraws that.

(Interruptions)

To other women! He has to withdraw that.

Madam Speaker: Hon. Shakeel Mohamed! Please! Please, resume your seat! You have to make a distinction between insulting a particular Member and making his arguments on one particular subject. And this is what he has made, so I don't think there is anything to withdraw.

At 10.32 p.m., the Assembly was, on its rising, adjourned to Tuesday 30 October 2018 at 11.30 a.m.

WRITTEN ANSWERS TO QUESTIONS

SAUDI ARABIA - SECOND-ANNUAL FUTURE INVESTMENT INITIATIVE

(No. B/887) 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 the

second-annual Future Investment Initiative scheduled for 23-25 October 2018, in Riyadh, Saudi Arabia, he will state if Mauritius has been invited to attend same.

Reply (Minister of Foreign Affairs, Regional Integration and International Trade): My Ministry has not received any invitation to participate in the second annual Future Investment Initiative scheduled from 23 to 25 October 2018 in Riyadh.

Our Embassy in Riyadh has also informed that they are not in the presence of any invitation for Mauritius to participate in the second annual Future Investment Initiative (FII) to be held from 23 to 25 October 2018 in Riyadh, Saudi Arabia.

PORT DEVELOPMENT - FORT WILLIAM -- FISHERS

(No. B/910) Mrs D. Selvon (Second Member for GRNW & Port Louis West) asked the Minister of Ocean Economy, Marine Resources, Fisheries and Shipping whether, in regard to the fishing communities of Bain des Dames, Les Salines, Pointe aux Sables and the Grand River North West in Constituency No. 1, Grand River North West and Port Louis West, he will state the policy and measures taken as to the uncertain future thereof in view of the expansion of the port and other activities in these regions.

Reply: I am informed by the Mauritius Ports Authority that it is presently in the process of finalising the award of consultancy services for the project of port expansion and development of port related activities in the area of Fort William. According to the Mauritius Ports Authority, it is not foreseen that the port development will affect the activities of the fishers of the region.

Nevertheless, the whole project will be subjected to an Environment Impact Assessment Study which will, *inter alia*, address the issue of any impact on the fishers' community. In this connection, if need be, conditions may be included in the EIA licence so as to ensure that consultations are held with the fishers' community and measures are taken in the course of implementation of the project so as to cause the least disturbance to the fishers.

MISSING PERSONS – JANUARY 2014 – OCTOBER 2018

(No. B/912) 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 the missing persons, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to the names thereof over the past five years, indicating the number thereof having been found and having reintegrated their families.

Reply: I am informed by the Commissioner of Police that from January 2014 up to 19 October 2018, 4,261 persons were reported missing to the Police.

3,650 persons have been found safe, out of whom 3,428 have reintegrated their families.

As regards the names of the 559 persons who are still missing, the list thereof is being compiled. This is a tedious exercise and would need some time to be completed. Once done, it will be placed in the Library of the National Assembly.

POLICE FORCE - DISCIPLINE & SERVICE DELIVERY

(No. B/913) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to the Mauritius Police Force, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to the actions initiated to enforce discipline and increase the efficiency of service delivery.

(Withdrawn)

PUBLIC SAFETY - THEFT, LARCENY AND AGGRESSIONS

(No. B/914) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, following the recent cases of theft, larceny and aggressions, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to the additional actions initiated to ensure public safety as of late.

(Withdrawn)

MITD - ELECTRICAL INSTALLATION & MECHANICAL ENGINEERING - TRAINING

(No. B/915) Mr B. Jahangeer (Third Member for Rivière des Anguilles & Souillac) asked the Minister of Education and Human Resources, Tertiary Education and Scientific Research whether, in regard to the training of new tradesmen, namely, in the field of plumbing, electrical installation and mechanical engineering, amongst others, she will, for the benefit of the House, obtain from the Mauritius Institute of Training and Development, information as to where matters stand.

(Withdrawn)

TRAFFIC OFFENCE - DRIVING LICENCE

(No. B/916) Mr B. Jahangeer (Third Member for Rivière des Anguilles & Souillac) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to the requirement of the presentation of the driving licence in relation to a traffic offence, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to if the presentation of a digital version of the driving licence is acceptable.

(Withdrawn)

COMMISSION OF INQUIRY ON DRUG TRAFFICKING - PRISONS - RECOMMENDATIONS

(No. B/918) 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 prison services, he will, for the benefit of the House, obtain from the Commissioner of Prisons, information as to the actions taken, if any, following the recommendations of the Report of the Commission of Inquiry on Drug Trafficking in Mauritius to –

- (a) ensure that no prohibited articles enter the prison premises, and
- (b) provide lighting and CCTV Surveillance System along the outside walls of the prisons.

(Vide Reply to PNQ)

INDIAN REAL ESTATE OPPORTUNITIES FUND – GLOBAL BUSINESS LICENCE

(No. B/920) Mr P. Armance (First Member for GRNW & Port Louis West) asked the Minister of Financial Services and Good Governance whether, in regard to the Indian Real Estate Opportunities Fund, he will, for the benefit of the House, obtain from the Financial Services Commission, information as to if it is in presence of any correspondence in relation to alleged mismanagement of funds thereat and, if so, indicate the actions taken in relation thereto, if any.

Reply: I am informed by the Financial Services Commission that one licensee bearing the name of “Indian Real Estate Opportunities Fund” was granted a Category One Global Business Licence to operate as a Collective Investment Scheme on 08 November 2006.

However, the “Indian Real Estate Opportunities Fund” was removed from the Register of Companies on 12 December 2011 and its Global Business Licence lapsed on that date.

In fact, I presume that the hon. Member is referring to IREO Funds which have recently been in the news.

I would like to highlight that the “Indian Real Estate Opportunities Fund” has no relation with the IREO Funds.

I am informed by the Financial Services Commission that following complaints received from investors, the Commission has initiated appropriate action to look into the matter.

I would like to inform the House that the IREO Funds hold Category 1 Global Business Licences and as per section 83(4) of the Financial Services Act 2007, all documents and other information pertaining to entities holding Category 1 Global Business Licences are confidential.

As such, no further information can be provided for the time being.

GRAND RIVER NORTH WEST AND PORT LOUIS WEST - POLLUTION

(No. B/921) Mr P. Armance (First 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 state if he is in presence of representations from inhabitants, social workers, and associations of the said constituency regarding pollution allegedly caused by factories found in the vicinity of Pointe aux Sables, and, if so, indicate –

- (a) the actions taken in relation thereto, and
- (b) if consideration will be given for a review of the Environment Impact Assessment procedure with a view to preventing the additional implementation of non-environment friendly factories thereat.

Reply: I wish to refer to replies made to PQ B/710 and PQ B/722 concerning complaints from inhabitants of Pointe aux Sables and La Tour Koenig regarding alleged air pollution and health hazard from industrial activities thereat in which I informed the House that my colleagues, the Minister of Social Integration and Economic Empowerment, Member of Parliament for Constituency No. 1, Port Louis West and Grand River North West, hon. Wong Yen Cheong and the Parliamentary Private Secretary, hon. Third Member for Constituency No. 4, Port Louis North and Montagne Longue, Mrs Marie Claire Monty, who is also a resident of the locality have, on several occasions, drawn my attention to the fact that a significant number of complaints have been made by the inhabitants of Morcellement Rey and of Morcellement Petit Verger at Pointe aux Sables pertaining to odour and fumes nuisances arising from industrial activities.

My Ministry has been closely monitoring the industrial activities within Pointe aux Sables and La Tour Koenig Industrial Zone. I am informed that between 09 June 2017 and 18 October 2018, 31 inspections have been effected in the region of Pointe aux Sables and La Tour Koenig Industrial Zone by officers of my Ministry. I am also informed that on 29 occasions, the inspections have revealed that there was no indication of air pollution thereat.

Moreover, in 2017 and 2018, the National Environment Laboratory of my Ministry has carried out three continuous ambient air quality monitoring exercises for a duration of three to four weeks each. The results have shown that the level of the ambient air pollutants measured on all three occasions were within the prescribed standards of the Environmental Protection (Standards for Air) Regulations 1998.

I also wish to highlight that following requests made by my Ministry, five independent air monitoring exercises have been carried out by the Mauritius Cane Industry Authority at two specific factories, namely RT Knits Ltd and Tradeway International Ltd, and results were within the standards of the Environment Protection (Standards for Air) Regulations 1998. Two ambient air monitoring exercises in 2017 and one stack monitoring exercise in 2018 were carried out at RT Knits Ltd; and two stack monitoring exercises in 2017 and 2018 respectively were carried out at Tradeway International Ltd. These have indicated that there is no “severe air pollution” prevailing within La Tour Koenig Industrial Zone where some 9,902 workers are present daily and from whom my Ministry has received no complaint.

Given the proximity of factories from the residential developments of Pointe aux Sables and La Tour Koenig, my Ministry will continue monitoring the air quality in the region and will not hesitate to take any enforcement and remedial actions, if required, in line with the enforcement provisions of Part XI of the Environment Protection Act 2002 (as amended).

With regard to part (b) of the PQ, I am advised that the present EIA mechanism as provided under Part (IV) of the Environment Protection Act is effective and robust and, therefore, the need to review same does not arise for the time being.

NINE YEAR CONTINUOUS BASIC EDUCATION PROGRAMME - ACADEMIC YEAR 2018

(No. B/923) Mr V. Baloomoody (Third Member for GRNW & Port Louis West) asked the Minister of Education and Human Resources, Tertiary Education and Scientific Research whether, in regard to the extended stream of Grade 7 within the Nine Year

Continuous Basic Education Programme, she will state the number of students concerned therewith in academic year 2018, indicating if –

- (a) the teachers who are called to deal with these students have been appropriately trained therefor, and
- (b) after completion of the academic year these students have satisfied the minimum requirement to join Grade 7.

(Withdrawn)

SWISS ANGOLAN FINANCIER BASTOS - FUNDS

(No. B/924) Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes) asked the Minister of Financial Services and Good Governance whether, following the freezing of the funds of the Swiss Angolan Financier Bastos, he will, for the benefit of the House, obtain from the Financial Services Commission, information as to if discussions are ongoing in relation thereto between the said Commission and a British Law firm appointed by the Angolan Government.

Reply: I am informed by the Financial Services Commission that following the freezing of the funds of the Swiss Angolan Financier Bastos, the representatives of the Fundo Soberano De Angola [also known as the Sovereign Wealth Fund of Angola] accompanied by their lawyers, which included a British Law firm, met the Financial Services Commission in April and August 2018 to express their concern about the management of the funds .

I am further informed that there is no ongoing discussion between the Financial Services Commission and the British Law firm.

I would like to inform the House that the entities related to Mr Jean Claude Bastos hold Category 1 Global Business Licences and as per Section 83(4) of the Financial Services Act 2007, all documents and other information pertaining to entities holding Category 1 Global Business Licences are confidential.

Furthermore, I am informed that there are several cases pending before the Supreme Court of Mauritius relating to the Funds managed by Mr Bastos, and there are two cases in which the Financial Services Commission is a direct party .

Hence, it would be inappropriate to provide any further information at this point in time.

**EMPLOYMENT RELATIONS ACT & EMPLOYMENT RIGHTS ACT -
AMENDMENTS**

(No. B/926) Mr V. Baloomoody (Third Member for GRNW & Port Louis West) asked the Minister of Labour, Industrial Relations, Employment and Training whether, in regard to the Ministerial Committee set up to consider proposed amendments to be brought to the Employment Relations Act and the Employment Rights Act, he will state the date of the last meeting thereof, indicating the expected date of introduction of the proposed amendments in the House.

(Withdrawn)

REHABILITATION YOUTH CENTRE - ALLEGED INDECENT ACTS

(No. B/928) Mrs A. Perraud (First Member for Port Louis North & Montagne Longue) asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to the recent alleged case of indecent acts by an officer posted at the Rehabilitation Youth Centre in Rose Hill, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to where matters stand as to the inquiry carried out thereinto.

(Withdrawn)

**NATIONAL EMPOWERMENT FOUNDATION – CHILDREN - ABSOLUTE
POVERTY**

(No. B/929) Mrs A. Perraud (First Member for Port Louis North & Montagne Longue) asked the Minister of Social Integration and Economic Empowerment whether, in regard to absolute poverty, he will, for the benefit of the House, obtain from the National Empowerment Foundation, information as to the number of children living in families falling in this category, indicating the measures that are being taken to help and assist these children.

(Withdrawn)

CITÉ BRIQUETTERIE - SEWERAGE NETWORK

(No. B/930) Mrs A. Perraud (First Member for Port Louis North & Montagne Longue) asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the sewerage network drains at Cité Briquetterie, he will, for the benefit of the House, obtain from the Waste Water Management Authority, information as to if it is in presence of complaints of foul smell emanating therefrom and, if so, indicate if urgent remedial measures will be taken in relation thereto.

(Withdrawn)

MAURITIUS PRISON SERVICE – APPOINTMENTS – SELECTION

(No. B/931) Ms M. Sewocksingh (Third Member for Curepipe & Midlands) asked the Rt. hon Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to the prisons, he will, for the benefit of the House, obtain from the Commissioner of Prisons, information as to if thorough background screening exercises of applicants for posts thereat and during service, respectively, are carried out and, if so, indicate if consideration will be given for the strengthening thereof.

Reply: I am informed by the Commissioner of Prisons that selection for the appointment to the entry grades of Prisons Officer/Senior Prisons Officer, Woman Prisons Officer/Senior Woman Prisons Officer, Prisons Psychologist, Senior Officer Cadet and Hospital Officer in the Mauritius Prison Service (MPS) is made by the Disciplined Forces Service Commission (DFSC). The selection exercise includes background screening of the applicants. After considering the suitability of the qualified candidates, the DFSC submits, by virtue of the power vested in it under section 91 of the Constitution, a list of candidates to be appointed by the Commissioner of Prisons.

As regards the manual grades such as Prisons Driver (shift), Security Guard, Cook (on roster), Mason, Carpenter, Vulcaniser, Stores Attendant, Plumber and Pipe Fitter, appointment is made, under delegated authority, by the Commissioner of Prisons through a Selection Board comprising a Chairperson, two members and a Secretary. Most of these appointments are made from officers already in service at other Ministries/Departments.

Regarding the grade of General Worker, a list of suitable candidates is made available by the Ministry of Labour, Industrial Relations, Employment and Training. Selection exercise is carried out at the level of the Mauritius Prison Service (MPS) and the candidates are required to produce a recent certificate of character.

Appointment in the higher grades at the MPS is made by either promotion or selection by the DFSC.

I am informed that the recruitment procedure for the post of Prisons Officer/Senior Prisons Officer has been revised with effect from 07 August 2018.

In fact, as from August 2018, with the harmonisation of the requirements to join the Disciplined Forces at entry level (Police Force, Prison Service and Fire & Rescue Services), a common recruitment exercise is being carried out by the DFSC. A thorough background screening/analysis is carried out on the candidates before recruitment by the DFSC with a

view to ascertaining that the candidates are, *inter alia*, clear character-wise to join the Disciplined Forces.

Candidates are required to undergo various tests and examinations, including measurements test, physical aptitude test/operational field test and medical examination and finally to attend an interview.

Furthermore, candidates selected for Prisons Officer/Senior Prisons Officer will be appointed in a temporary capacity in the first instance. They will be informed that their temporary appointments might be terminated at any time in the event of incompetence, misconduct, insubordination, involvement in any serious criminal offence, incapacity by reason of any infirmity of mind or body or any other cause to attend/follow/complete training or in the event that they are found unfit to discharge their functions.

The selected candidates would be required to undergo both theoretical and practical training including on-the-job training for a period of at least one year in all aspects of the work prescribed for the grade. They would also be required to undergo medical/psychological tests, including blood/urine tests for drug misuse, during their training period and, as and when required, to assess their fitness to serve in the Disciplined Forces. On satisfactory completion of the training and clearance of all tests and on being favourably reported upon, they would be considered for appointment.

The DFSC envisages to introduce a Health Card for each officer after his recruitment in any Disciplined Force and would be designed in such a way to follow up and keep track on the medical fitness required throughout his employment.

CHINA TOWN – LARCENY CASES

(No. B/933) 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 law and order situation in China Town, in Port Louis, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to the number of reported cases of larceny and aggression thereat over the past three years, indicating –

- (a) the number of arrests effected in connection therewith, and

- (b) if additional measures will be taken in relation thereto, including the installation of CCTV Surveillance system and the upgrading of the street lighting system thereat and, if so, when and, if not, why not.

Reply: I am informed by the Commissioner of Police that from 01 January 2016 to 19 October 2018, fifteen (15) cases of larceny and twenty-one (21) cases of assault in the region of China Town, Port Louis, have been reported to the Police for enquiry.

With regard to part (a) of the question, as at 19 October 2018, twenty (20) suspects have been arrested in connection with cases of larceny.

With regard to part (b) of the question, I am informed that the following additional measures have already been taken to enhance security in the region of China Town –

- (i) Police presence has been reinforced along the various streets;
- (ii) targeted crack down operations are being carried out. These include Road Blocks and Vehicle Check Points by SSU, SMF, Divisional CID and local Police where suspicious persons and vehicles are being stopped, checked and systematically questioned;
- (iii) the Anti-Robbery Squad has been deployed to support to the local CID in the fight against larceny and other offences taking place on public road;
- (iv) the inhabitants of the region are continuously being sensitised on crime prevention strategies, and
- (v) direct communication with Private Security Guards for information sharing has been established.

Furthermore, I am informed that with regard to the CCTV Surveillance System, the area of China Town and its vicinity are presently covered by eight (8) Video Surveillance Cameras. With the implementation of the Safe City Project, the region of Port Louis North will be adequately covered with thirty three (33) additional cameras including Intelligence Video Surveillance (IVS) and Intelligent Traffic System (ITS), which will be fully operational by June 2019.

As regards street lighting, which falls under the purview of the Ministry of Local Government and Outer Islands, I am informed that it already exists and maintenance is also carried out on a regular basis. However, a request has been received from New Chinatown Foundation for fixing of additional lighting and same is under consideration.

SPORTS MEDICAL UNIT – TREATMENT FACILITIES

(No. A/14) Mr F. Quirin (Fourth Member for Beau Bassin & Petite Rivière) asked the Minister of Youth and Sports whether, in regard to the Sport Medical Unit, he will, for the benefit of the House, obtain therefrom, information as to –

- (a) the number of staff posted thereat, indicating in each case the duties assigned thereto;
- (b) the number of athletes treated thereat, since January 2017 to date, and
- (c) if additional treatment facilities will be provided thereat to the athletes participating in the 10th Indian Ocean Games in 2019.

Reply: I am laying in the Library of the National Assembly the lists of staff posted at the Sports Medical Unit and the number of athletes treated by doctors and physiotherapists since January 2017 to date.

For the forthcoming Indian Ocean Island Games, additional equipment has been purchased, including medical tests machines, performance monitoring equipment and gym accessories for rehabilitation. The stock of medicines and supplements for athletes has been renewed.

To provide better assistance to athletes for the forthcoming Games, the number of staff at the Sports Medical Unit is being increased and interviews have already been conducted for some posts, e.g. physiotherapists.

BAI (FORMER) – OVERSEAS ASSETS

(No. A/16) Mr S. Baboo (Second Member for Vacoas & Floreal) asked the Minister of Financial Services and Good Governance whether, in regard to the assets held overseas by the former BAI and which have not yet been disposed of, he will state where matters stand.

Reply: I am informed by the Special Administrator that all the assets which were held overseas by the former BAI have either been sold or transferred to the National Insurance Co. Ltd and the National Property Fund Ltd.

I am further informed by the National Insurance Co. Ltd that out of the 16 overseas assets transferred to it, seven have already been disposed of.

I am also informed by the Special Administrator that only one overseas asset was transferred to the National Property Fund Ltd and it has already been disposed of.

