



SIXTH NATIONAL ASSEMBLY

PARLIAMENTARY

DEBATES

(HANSARD)

FIRST SESSION

FRIDAY 20 MARCH 2015

CONTENTS

PAPERS LAID

QUESTION (*Oral*)

MOTIONS

BILL (*Public*)

ADJOURNMENT

Members

Members

THE CABINET**(Formed by the Rt. Hon. Sir Anerood Jugnauth, GCSK, KCMG, QC)**

Hon. Sir Anerood Jugnauth, GCSK, KCMG, QC	Prime Minister, Minister of Defence, Home Affairs, Minister for Rodrigues and National Development Unit
Hon. Charles Gaëtan Xavier-Luc Duval, GCSK	Deputy Prime Minister, Minister of Tourism and External Communications
Hon. Showkutally Soodhun, GCSK	Vice-Prime Minister, Minister of Housing and Lands
Hon. Ivan Leslie Collendavelloo, GCSK	Vice-Prime Minister, Minister of Energy and Public Utilities
Hon. Seetanah Lutchmeenaraidoo, GCSK	Minister of Finance and Economic Development
Hon. Pravind Kumar Jugnauth	Minister of Technology, Communication and Innovation
Hon. Yogida Sawmynaden	Minister of Youth and Sports
Hon. Nandcoomar Bodha	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	Minister of Health and Quality of Life
Dr. the Hon. Mohammad Anwar Husnoo	Minister of Local Government
Hon. Prithvirajsing Roopun	Minister of Social Integration and Economic Empowerment
Hon. Marie Joseph Noël Etienne Ghislain Sinatambou	Minister of Foreign Affairs, Regional Integration and International Trade
Hon. Ravi Yerrigadoo	Attorney General
Hon. Mahen Kumar Seeruttun	Minister of Agro-Industry and Food Security
Hon. Santaram Baboo	Minister of Arts and Culture
Hon. Ashit Kumar Gungah	Minister of Industry, Commerce and Consumer Protection
Hon. Mrs Marie-Aurore Marie-Joyce Perraud	Minister of Gender Equality, Child Development and Family Welfare
Hon. Sudarshan Bhadain	Minister of Financial Services, Good Governance and Institutional Reforms
Hon. Soomilduth Bholah	Minister of Business, Enterprise and Cooperatives
Hon. Mrs Fazila Jeewa-Daureeawoo	Minister of Social Security, National Solidarity and Reform

Institutions

Hon. Premdut Koonjoo	Minister of Ocean Economy, Marine Resources, Fisheries, Shipping and Outer Islands
Hon. Jayeshwur Raj Dayal, CSK, PDSM, QPM	Minister of Environment, Sustainable Development and Disaster and Beach Management
Hon. Marie Roland Alain Wong Yen Cheong, MSK	Minister of Civil Service and Administrative Reforms
Hon. Soodesh Satkam Callichurn	Minister of Labour, Industrial Relations, Employment and Training

PRINCIPAL OFFICERS AND OFFICIALS

Madam Speaker	Hanoomanjee, Hon. Mrs Santi Bai, GCSK
Deputy Speaker	Duval, Hon. Adrien Charles
Deputy Chairperson of Committees	Hurreeram, Hon. Mahendranuth Sharma
Clerk of the National Assembly	Lotun, Mrs Bibi Safeena
Deputy Clerk	Ramchurn, Ms Urmeelah Devi
Clerk Assistant	Gopall, Mr Navin (Temporary Transfer to RRA)
Hansard Editor	Jankee, Mrs Chitra
Serjeant-at-Arms	Badal, Mr Ramesh

MAURITIUS

Sixth National Assembly

FIRST SESSION

Debate No. 12 of 2015

Sitting of 20 March 2015

The Assembly met in the Assembly House, Port Louis at 2.00 p.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. Ministry of Finance and Economic Development

- (a) The Digest and Water Statistics 2013.
- (b) The Digest of Environment Statistics, Year 2013.
- (c) The Digest of Public Finance Statistics 2013.

B. Ministry of Social Security, National Solidarity and Reform Institutions –

- (a) The Unemployment Hardship Relief (Amendment of Schedule) Regulations 2015 (Government Notice No. 25 of 2015).
- (b) The Unemployment Hardship Relief (Amendment of Schedule) (No. 2) Regulations 2015 (Government Notice No. 26 of 2015).
- (c) The Unemployment Hardship Relief (Amendment of Schedule) (No. 3) Regulations 2015 (Government Notice No. 27 of 2015).
- (d) The Social Aid (Amendment) Regulations 2015 (Government Notice No. 28 of 2015).
- (e) The Social Aid (Amendment No. 2) Regulations 2015 (Government Notice No. 29 of 2015).
- (f) The Social Aid (Amendment No. 3) Regulations 2015 (Government Notice No. 30 of 2015).
- (g) The Social Aid (Amendment of Schedule) Regulations 2015 (Government Notice No. 31 of 2015).
- (h) The Social Aid (Amendment of Schedule) (No. 2) Regulations 2015 (Government Notice No. 32 of 2015).
- (i) The Social Aid (Amendment of Schedule) (No. 3) Regulations 2015 (Government Notice No. 33 of 2015).

ORAL ANSWER TO QUESTION**CHAGOS ARCHIPELAGO – MAURITIUS SOVEREIGNTY**

The Leader of the Opposition (Mr P. Bérenger) (*by Private Notice*) asked the Rt. hon. Prime Minister, Minister of Defence, Home Affairs, Minister for Rodrigues and National Development Unit whether, in regard to the sovereignty of Mauritius over the Chagos Archipelago and the so-called “Chagos Marine Protected Area”, he will state if Mauritius is in possession of an official copy of the Ruling delivered yesterday by the United Nations Arbitral Tribunal and of the statement made on the said Ruling by the United Kingdom Foreign and Commonwealth Office and, if so, indicate if -

- (a) copy thereof will be circulated, and
- (b) he proposes to carry out consultations with the Opposition before issuing any statement on the Ruling or deciding on the way forward.

The Prime Minister: Madam Speaker, I had already planned to make a statement this afternoon to inform the House that the Award has been delivered in the case brought by Mauritius against the United Kingdom in respect of the Chagos Archipelago. I thank the hon. Leader of the Opposition for giving me an earlier opportunity to address this issue.

This Award is an important milestone in the relentless struggle, at the political, diplomatic and other levels, of successive Governments over the years for the effective exercise by Mauritius of its sovereignty over the Chagos Archipelago. In this respect, I need not remind the House of my own initiatives, both as Head of State and Head of Government, to reaffirm the sovereignty of Mauritius over the Chagos Archipelago and to press for its early and unconditional return to the effective control of Mauritius.

Madam Speaker, in reply to part (a) of the question, as the House is aware, in pursuance of our ongoing struggle, Mauritius initiated on 20 December 2010 proceedings against the United Kingdom under the United Nations Convention on the Law of the Sea (UNCLOS) to challenge the legality of the ‘Marine Protected Area’ (‘MPA’) which the United Kingdom purported to declare around the Chagos Archipelago in April 2010.

Since Mauritius and the United Kingdom did not agree on the means for the settlement of the dispute, it was submitted to arbitration in accordance with Annex VII to UNCLOS.

After lengthy written pleadings by the Parties and a hearing from 22 April to 09 May 2014 in Istanbul, Turkey, the Arbitral Tribunal set up under Annex VII to UNCLOS gave its Award on 18 March 2015. The Award is final and without appeal, and is binding on both Parties. It has been made public this morning and may be consulted on the website of the Permanent Court of Arbitration.

The Tribunal unanimously held that the 'Marine Protected Area' which the UK purported to declare around the Chagos Archipelago in April 2010 violates international law. This is a historic ruling for Mauritius. It is also the first time that the United Kingdom's conduct with regard to the Chagos Archipelago has been considered and condemned by any international court or tribunal.

Madam Speaker, the Award is a resounding victory for Mauritius. In a closely-reasoned decision of over 200 pages, the Tribunal held unanimously that, in declaring the 'MPA', the United Kingdom violated international law. It ruled that the United Kingdom has breached its obligations under Articles 2(3), 56(2), and 194(4) of UNCLOS.

In reaching these conclusions, the Tribunal made a number of important findings. It considered in detail the undertakings given by the United Kingdom to the Mauritian Ministers at the Lancaster House talks in September 1965. The UK had argued that those undertakings were not binding and had no status in international law. The Tribunal firmly rejected that argument, holding that those undertakings became a binding international agreement upon the independence of Mauritius, and have bound the UK ever since.

It found that the UK's commitments towards Mauritius in relation to fishing rights and oil and mineral rights in the Chagos Archipelago are legally binding.

Moreover, the Tribunal also found that the United Kingdom's undertaking to return the Chagos Archipelago to Mauritius when no longer needed for defence purposes is legally binding. This establishes beyond doubt that, in international law, Mauritius has real, firm and binding rights over the Chagos Archipelago, and that the United Kingdom must respect those rights.

The Tribunal went on to hold that the United Kingdom had not respected Mauritius' binding legal rights over the Chagos Archipelago. It considered the events from February 2009 to April 2010, during which time the 'MPA' proposal came into being and was then imposed on Mauritius. The Tribunal stated that it, I quote –

“finds it difficult to reconcile this course of events with the spirit of negotiation and consultation or with the need to balance the interests at stake in the waters of the Archipelago.”

It considered that the United Kingdom, I quote -

“has not been able to provide any convincing explanation for the urgency with which it proclaimed the MPA on 01 April 2010.”

It held that, I quote -

“To the extent that the timing of the declaration of the MPA was in fact dictated by the electoral timetable in the United Kingdom or an anticipated change of Government, the Tribunal does not accept that such considerations can justify the disregard of the United Kingdom’s obligations to Mauritius. The absence of any justifiable rationale for the United Kingdom’s haste - which, the Tribunal notes, stands in sharp contrast to the absence of implementing measures following the MPA’s declaration - exacerbates the inadequacy of the prior consultation with Mauritius.”

The Tribunal also observed that the failure of the United Kingdom to balance its own rights and interests with those of Mauritius is to be contrasted with the approach adopted by the United Kingdom with respect to the United States. It noted that the record demonstrates a conscious balancing of rights and interests, suggestions of compromise and willingness to offer assurances by the United Kingdom, and an understanding of the United States’ concerns in connection with the proposed ‘MPA’. Those elements were noticeably absent in the United Kingdom’s approach to Mauritius.

Accordingly, the Tribunal found that, in declaring the ‘MPA’, the United Kingdom had acted unlawfully and in disregard of Mauritius’ rights.

Madam Speaker, Mauritius had also asked the Tribunal to rule that the United Kingdom was not the “coastal State” for the purposes of UNCLOS, because the excision of the Chagos Archipelago from Mauritius was contrary to international law. Three members of the Tribunal found that they did not have jurisdiction to rule on that question; they expressed no view as to which of the two States has sovereignty over the Chagos Archipelago. However, and very significantly, two members of the Tribunal, namely Judges Wolfrum and Kateka,

held that the Tribunal did have jurisdiction to decide this question, and concluded that the United Kingdom does not have sovereignty over the Chagos Archipelago. They found that -

- (a) internal United Kingdom documents suggested there was an ulterior motive behind the ‘MPA’ and noted the disturbing similarities and common pattern between the establishment of the so-called “BIOT” in 1965 and the proclamation of the ‘MPA’ in 2010;
- (b) the excision of the Chagos Archipelago from Mauritius in 1965 shows a complete disregard for the territorial integrity of Mauritius by the United Kingdom;
- (c) UK Prime Minister Harold Wilson’s threat to Premier Sir Seewoosagur Ramgoolam in 1965 that he could return home without independence if he did not consent to the excision of the Chagos Archipelago amounted to duress;
- (d) in 1965, Mauritian Ministers were coerced into agreeing to the detachment of the Chagos Archipelago, and that this detachment violated the international law of self-determination, and
- (e) the ‘MPA’ is legally invalid.

This is a highly significant moment. It is the first time ever that any international judge has looked at the legal merits of this issue. Indeed, Judges Wolfrum and Kateka have unequivocally affirmed the sovereignty of Mauritius over the Chagos Archipelago. They have also gone on to find that the United Kingdom had acted in bad faith in declaring the ‘MPA’ in 2010.

Madam Speaker, it is significant that the Tribunal’s Award also determined that, I quote -

“the United Kingdom’s undertaking to return the Chagos Archipelago to Mauritius gives Mauritius an interest in significant decisions that bear upon the possible future uses of the Archipelago.”

The result of the Tribunal’s decision is that, to use the very words of the Tribunal, I quote -

“It is now open to the Parties to enter into the negotiations that the Tribunal would have expected prior to the proclamation of the MPA, with a view to achieving a

mutually satisfactory arrangement for protecting the marine environment, to the extent necessary under a “sovereignty umbrella”.”

I am tabling copies of the Award and of the Dissenting and Concurring Opinion by Judges Kateka and Wolfrum.

Madam Speaker, as at the time of the drafting of this reply, we have not come across any official statement made by the British side on the Award. I am, however, informed that in an article published in *‘The Guardian’* of yesterday, comments were made by a spokesperson of the Foreign and Commonwealth Office on the Award.

Madam Speaker, in reply to part (b) of the question, my Government will study the Award with all the care it deserves, with the assistance of our local and external legal teams. In the coming period, we will define the steps that will now need to be taken to give effect to the sovereignty of Mauritius over the Chagos Archipelago, explicitly recognised by two of the arbitrators and denied by none of the other three. We will also consider the steps that need to be taken to give effect to all our rights over the Chagos Archipelago, including those relating to fisheries, and oil and minerals which the Tribunal has unanimously affirmed.

As I had mentioned in my reply to the PNQ on 26 February 2015, in keeping with the bipartisan approach we have always adopted on issues of national importance, the hon. Leader of the Opposition would be consulted at the appropriate time.

I propose to chair a committee which will consider the best way forward. I am formally inviting the hon. Leader of the Opposition, as well as a representative of each political party represented in this House, to form part of this committee. The committee will be assisted by our local and external legal teams, as and when required.

May I also add that this victory today is a victory for Mauritius as a whole, including those of our fellow countrymen who are of Chagossian origin. It is a victory for the nation and the people of Mauritius.

Madam Speaker, I take the opportunity, finally, to thank our team in Mauritius led by our agent, Mr Dheerendra K. Dabee, Solicitor-General, and our external legal team led by Professor Philippe Sands QC for their excellent work and their dedication.

Our friends in Africa, Asia, Latin America and the rest of the world have over the years consistently supported us in our efforts to effectively exercise our sovereignty over the

Chagos Archipelago. In fact, during his recent visit to Mauritius, Prime Minister Modi reaffirmed India's support for Mauritius on this matter. We are thankful for this international solidarity and have no doubt that all our friends will rejoice in this victory, which some might compare to the victory of David over Goliath. We are confident that we can continue to rely on their staunch support in the pursuit of our ongoing and just fight.

Mr Bérenger: Madam Speaker, I thank the Rt. hon. Prime Minister for providing us with an official copy of both rulings; the unanimous and the minority ruling of the Tribunal. But I am a bit surprised because, as the Rt. hon. Prime Minister just said, 'The Guardian' of this morning quotes an official reaction from the Foreign and Commonwealth Office yesterday afternoon, as soon as the ruling was out, and we are still not in presence of any official communiqué, any official statement. Can I ask the Rt. hon. Prime Minister whether our Mission in London has tried to obtain a copy of any official reaction yesterday afternoon from the Foreign and Commonwealth Office on that? Because it is important for us to have the official text and not just what 'The Guardian' has simply produced.

The Prime Minister: We are not in a hurry to make public comments, Madam Speaker. Insofar as any expression on the part of the Commonwealth Office or UK External Affairs is concerned, we have had no official copy so far.

Mr Bérenger: Madam Speaker, on the first issue, it is a fact that the Rt. hon. Prime Minister has said that the Tribunal has ruled that the UK acted illegally in setting up the MPA - Marine Protected Area. It has ordered, in fact, the UK - London - to renegotiate with Mauritius the setting up of such a MPA. But, in the reaction from the Foreign and Commonwealth Office, as reported by 'The Guardian' of this morning - until we have an official document - London was cheeky enough to declare itself 'pleased' with certain aspects of the ruling, and has tried to downplay terribly the impact of the ruling, indicating that they are prepared only to discuss our fishing rights in the Chagos Archipelago. As I have said, we want to have the official statement. But have we already protested on the basis of what they are doing, trying to downplay completely the importance of that ruling, and limiting whatever discussion there will be on fishing rights in the Chagos Archipelago, full stop?

The Prime Minister: Could we expect anything else from them, anything contrary from the stand they have been taking all along, from the time they excised part of our territory? They are the culprits, and we know - last time when I answered a question here I

said that their philosophy is, might is right, and this is on what they are relying. But I hope finally justice will prevail and we will get our full sovereignty for the Chagos Archipelago.

Mr Bérenger: On the same issue, Madam Speaker. There are going to be general elections in the UK on 07 May; in six weeks' time. Will the Rt. hon. Prime Minister agree with me that it is necessary to get in touch right now, after this ruling, with both the outgoing Prime Minister and the outgoing Leader of the Opposition, to prepare the ground for substantial discussions after 07 May, especially so, that the Chagos Archipelago in 1965 was supposedly detached from Mauritius whilst the Labour Government was in power in London?

The Prime Minister: Insofar as their interests are concerned, Madam Speaker, I am sorry to say there is no difference between Labour and Conservative.

Mr Bérenger: In fact, maybe the Labour Government was worst in London than the Conservative Government. If I can move on to the fundamental issue of sovereignty, Madam Speaker, I agree fully with the Rt. hon. Prime Minister that *c'est un grand pas en avant* because two of the judges, UN judges, concluded that Mauritius has sovereignty, as the Rt. hon. Prime Minister said, over the Chagos Archipelago, being given that, I quote –

“in 1965, Mauritian Ministers were coerced into agreeing to the detachment of the Chagos Archipelago, and that this detachment violated the international law of self-determination.”

Will the Rt. hon. Prime Minister agree with me that the other three concluded that they did not have jurisdictions to pronounce themselves to take a stand on sovereignty, but it is also very important that none of them said that UK has sovereignty over the Chagos Archipelago?

The Prime Minister: Yes, I said so in my reply. This is a fact and we know that the whole transaction that took place was under duress, and we also know that from the very beginning the excision was illegal. I said so some time back when I answered a question over here.

Mr Bérenger: I am sure that the Rt. hon. Prime Minister will agree with me. With this ruling in our hands, the question is: from now on where do we go? And I am sure that the Rt. hon. Prime Minister will agree with me that there are key strategic decisions to be taken without losing time. With this ruling, two UN Judges pronouncing themselves for the first

time in favour of our sovereignty, what line of action are we going to take? Are we going to try and bring London to agree to go to the International Court of Justice, or instead are we going to take new diplomatic initiatives, possibly including the initiatives which we took in 2000/2005 on the issue?

The Prime Minister: I cannot answer this right now. I have said there is going to be a Committee which will decide what line we are going to follow, but, definitely, we are going to stand firm and we are going to fight against the United Kingdom to retrieve our territory.

(Interruptions)

Mr Bérenger: I welcome the Rt. hon. Prime Minister's decision to chair a committee - a political committee with the required experts - on the issue. Therefore, I welcome that, I thank him for that. I welcome that totally. But will he agree with me that there is no time to waste? The UK reacted immediately yesterday afternoon in a nasty way. There is, therefore, no time to waste. Will he agree with me that this committee, which he is going to chair, should get to work as soon as possible?

The Prime Minister: Certainly, we will do that. We are also in a hurry.

Mr Bérenger: My last question, Madam Speaker. I heard the Rt. hon. Prime Minister thank Professor Philippe Sands, the leader in our legal team, and the local people concerned also, the Solicitor-General and others. Indeed, this is a historic ruling, an important milestone - to pick up the words which the Rt. hon. Prime Minister has used. Therefore, can I suggest - he has thanked Professor Philippe Sands and the others - that the House expresses its thanks and conveys its thanks to Professor Philippe Sands and to his team for the fantastic work done; that therefore the House should - not just the hon. Prime Minister - thank them and address our thanks to them.

The Prime Minister: Well, the House is joining me to thank everyone who has helped in this matter.

Madam Speaker: Time is over! Hon. Jhugroo, I am sorry, the last question usually rests with the hon. Leader of the Opposition.

MOTIONS

SUSPENSION OF S.O. 10 (2)

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

The Deputy Prime Minister rose and seconded.

Question put and agreed to.

(2.30 p.m.)

STANDING ORDERS COMMITTEE - REPORT

The Prime Minister: Madam Speaker, I beg leave to move the Motion standing in my name and which reads thus -

“This Assembly resolves that the Report of the Standing Orders Committee in regard to the amendments to the Standing Orders and Rules of the National Assembly (1995), presently in force, more specifically Standing Orders 52 and 73, which was laid on the Table of the National Assembly on 14 March 2015 be approved, and that the amendments contained therein come into operation forthwith.”

Madam Speaker, at the very outset, I would like to thank the Standing Orders Committee for the diligence and promptness with which it has discharged, under your chairmanship, the task of reviewing Standing Orders 2, 52 and 73 of the Standing Orders and Rules of the National Assembly which had been entrusted to it.

Madam Speaker, as the House is aware, the amendments to Standing Order 73 have become necessary as a result of the enactment, on 05 March 2015, of the Finance and Audit (Amendment) Act 2015, which provides for the replacement of the Programme-Based Budgeting by a simpler and more flexible process of annual appropriation of budgetary resources by the Vote of Expenditure and making their Estimates documentation much clearer and more readily understandable to hon. Members and the public at large.

I would like to emphasise the fact that by doing away with Programme-Based Budgeting, we have not made any compromise on transparency and accountability. On the contrary, the new framework is fully compliant with the principles of Performance-Based Budgeting and will, therefore, enhance transparency and accountability.

As explained previously by the Minister of Finance and Economic Development, information on the allocation of financial resources for all Government services and details of

expenditure will continue to be disclosed fully and clearly. Provisions have also been made for monitoring mechanism in the form of progress reports on performance and achievements on budgetary measures.

I also wish to underline the fact that the shift from Programme-Based Budgeting has been undertaken after consultations with the IMF and our Development Partners and their observations have been taken into consideration.

Madam Speaker, the other main amendment proposed relates to Standing Order 52. Up to the year 2013, two Bills, namely, the Finance Bill and the Economic and Financial Measures Bill were being simultaneously introduced to implement the measures announced in the Budget Speech. As pointed out by hon. Mohamed last week, this follows from a ruling of Mr Speaker in 2009 to the effect that, in the absence of provisions in the Standing Orders, a Finance Bill should cover only measures announced in the Budget Speech relating to taxation and national finance.

Accordingly, Standing Order 52 has to be amended in order to provide for measures announced in the Budget Speech, whether relating to taxation and national finance or otherwise, to be covered in one single Bill, namely the Finance Bill.

However, I hasten to add that where a new legal framework is required to implement a measure announced in the Budget Speech or a measure requires substantial amendments, a new Bill or an Amendment Bill may still be introduced separately.

Finally, I would like to draw the attention of hon. Members to the fact that the Standing Orders Committee has, for the sake of greater clarity and precision, deemed it fit to reword the first sentence in the proposed new paragraph (1) of Standing Order 73, to make express reference therein to the issue from the Consolidated Fund of the sums necessary to meet the Estimates.

Madam Speaker, once again, I would like to thank the Standing Orders Committee for having diligently completed the task assigned to it.

With these words, I commend the motion to the House.

The Deputy Prime Minister rose and seconded.

(2.36 p.m.)

The Leader of the Opposition (Mr P. Bérenger): Madam Speaker, as you know, I am not going to repeat myself. We have made it clear that we are in disagreement with the way we are doing away with Programme-based Budgeting and, secondly, that we are in disagreement about going back to financial year ending at the end of June of every year instead of the calendar year.

But apart from that, you, Madam Speaker, chaired the Standing Orders Committee and the report is before us and the Rt. hon. Prime Minister is asking us to approve that report. I find it quite sad. When we were in Government in 2000 and 2005, one important symbolic move that we made was to everywhere where you find ‘Chairman’ replace it by ‘Chairperson’. It was a sweeping measure, very symbolic *dans sa portée*, whereas in the report of the Committee which you chaired, it is still ‘Chairman’ all the way. We missed the opportunity of putting in ‘Chairperson’ instead of ‘Chairman’. It is not too late. It is symbolic. It is not too late, but I think it is important just as wherever we have ‘Mr Speaker’, it could be ‘The Speaker’, because now we have ‘Madam Speaker’. But we still go on and on with Mr Speaker and especially ‘Chairman’ instead of ‘Chairperson’.

Thank you, Madam Speaker.

Madam Speaker: Is there any other Member who wishes to intervene on this motion? No other Member! So, I thank the Rt. hon. Prime Minister as Leader of the House and the hon. Leader of the Opposition for commending the work of the Standing Orders Committee, and now I will put the question.

The motion was, on question put, agreed to.

PUBLIC BILL

Second Reading

THE CONSTRUCTION INDUSTRY DEVELOPMENT BOARD (AMENDMENT)

BILL (No. II of 2015)

Order read for resuming adjourned debate on the Construction Industry Development Board (Amendment) Bill (No. II of 2015).

Question again proposed.

(2.39 p.m.)

Mr R. Uteem (First Member for Port Louis South & Port Louis Central): Madam Speaker, we are, today, here to debate the Construction Industry Development Board Bill, and last Saturday most of the hon. Members of this National Assembly received their Order Paper in the morning telling us that there will be the First and Second Reading of that Bill, which was certified as being an urgent Bill under Standing Order 65 by the Rt. hon. Prime Minister. I asked myself: “Why is this Bill so urgent? Why is it that this Bill is providing for a retrospective application that will come to effect on 01 February 2015?” And this because of this rush, because we are talking about the second Bill presented by the new Government when we have so many other Bills like the Police and Criminal Evidence Act which has already been circulated in the past. There is the Consumer Protection Bill. There are so many Acts. Why is this piece of legislation so urgent? So, I went back and did some research and tried to understand what is this urgency. The Bill has three objects. Two of them are relatively non-controversial and can be disposed of very quickly.

The first object is the recomposition of the Council. We have absolutely no problem with having the representative of the Professional Architects Council, Professional Quantity Surveyors’ Council or Council of Registered Professional Engineers. In fact, we welcome the decision of the Government to include on the Board a representative of the Ministry responsible for the subject of environment because this was a proposal, a suggestion made by the hon. Leader of the Opposition when the main Bill came before this House in 2008 and listed, and I quote –

“(…) how is it, when we are talking about the building industry, that the Ministry of Environment is not represented on the Council? We talk of ‘*Maurice Ile Durable*’ and then when we have a chance to put the membership of the Board, where our mouth is, we forget the Ministry of Environment.”

So, it is the most welcome move by this Government to at least include a representative from the Ministry of Environment.

We are less enthusiastic about the amendment to the composition of the Board where there would be a representative from Small and Medium Enterprises, but chosen by the Minister. There would be a representative from Association of Contractors appointed by the Minister. There would be a person of wide experience in the construction industry appointed

by the Minister. So, why this *mainmise* of the hon. Minister? We are talking here about the Council which has to be independent, which has to be seen to be independent because they are the ones who are going to propose grading. They are the ones who are going to register contractors. So, it has to be above board. But other than this, we don't have any major issue with the composition of the new Council that is being proposed.

The second object of this Bill is to change the definition of 'foreign contractor' and 'foreign consultant'. Again, we don't have any serious issue with that. The hon. Minister Bodha, last week, explained that it is important that we get rid of the requirement of non-residency. He also explained how, as the law stands today, after four years of operation, a foreign contractor, a foreign consultant is deemed to be a local contractor; four years after coming into force...

(Interruptions)

Yes. Four years in the past ten years. So, we don't have any major issue with this. We don't know this new protectionist policy; how would that fair vis-à-vis the donor countries, the *bailleurs de fonds*, the international community, when they will come to finance tender exercise because we know, all of us, that there is a move in the World Trade Organisation to eliminate barriers not only on export/import of goods, but also services that necessarily include provision of consultancy services and contractor services. But then, again, Madam Speaker, I think that we can at least justify this protectionist move because our construction industry is in very bad shape. Since 2011, we have had negative growth reaching a peak of almost 10% in 2013. So, I am sure that we will be able to justify this decision; for the time being, at least, keep the registration of foreign contractors, foreign consultants on a case by case basis.

But it is the main object of this Bill which is more of an issue for us, Madam Speaker. The main object of the Bill is the amendment to section 37 that –

- '(a) that a firm or person that or who was providing consultancy services, or undertaking construction works, in Mauritius immediately before 1 August 2014 may continue to provide consultancy services or undertake construction works for such period as may be prescribed, without being registered as a consultant, contractor, foreign consultant or foreign contractor, as the case may be;(...)'

So, Madam Speaker, we want to know, on this side of the House, why are we amending this? The hon. Minister Bodha, last week, intervening on the Bill, actually justified the amendment as follows, I quote –

‘In fact, (...) it is providing for an extension of the transitional period for registration of consultants and contractors which has already expired on 31 January 2015 – hence the retrospective application - and which is depriving almost 80 per cent, as I said, of the consultants and contractors the opportunity to register with the CIDB.’

In fact, what are they called upon to decide, to debate on and resolve today, Madam Speaker? Are we really extending the transitional period of registration? Are 80 per cent of the consultants and contractors today deprived of the opportunity to register with CIDB? Madam Speaker, nothing can be further from the truth! In fact, it is absolutely the opposite. As at the law stands today, section 19 and section 20 of the Act make it compulsory for all contractors, all consultants, be they local, be they foreigners to come and register with the Council, with the CIDB. If they do not register, they are not allowed to continue providing consultancy services, continue providing construction services. Today, they are bound to register. It is not a matter of they having no opportunity to register, they have to register and we are now telling them: “You do not have to register”. That is what this amendment is telling them. It is telling all you people who can and should register do not register, because if you were providing consultancy services, if you were a consultant, before the 01 of August 2014, you can continue to do that. There is no need to register.

And then, Madam Speaker, the Construction Industry Development Board, Regulations of Consultants and Contractors Regulations 2015, which came into force on 01 August 2014, already sets out the registration process. There are prescribed forms to be filled, there are specific qualifications required. If you want to be providing project management services, you need to have a qualified project manager. If you want to provide engineering services, you need to have qualified engineers. If you want to provide architectural services, you need to have qualified architect, and then you make application; the Council has 30 days to resolve. The Council can accept and register you if you fill the criteria or it can reject you. If you are aggrieved by the decision of the Council, you may have recourse. There is an appeal procedure, there is an *ad hoc* committee which is headed by an independent barrister. He comes, he considers, he listens to you and then the committee decides whether to grant you registration; yes or no! So, the registration is there, all the steps to be registered are there.

So, I totally disagree with the hon. Minister when he says that we are amending the law today because 80% of contractors/consultants are deprived of the opportunity to register. And why should we register?

Madam Speaker, the need for consultants and contractors to register was highlighted in the report published by the Council, CIDB, in a paper named: A Strategy Paper for the Construction Industry published in July 2013, that is, before the coming into force of the regulation. This is what the Council said –

“Registration of consultants and contractors which since long has been overdue should be undertaken at its earliest. This crucial exercise would have a multiplier effect in improving service delivery in the sector. The grading of contractors would enable a sort of pre-qualification of contractors according to their capabilities and resources and hence would facilitate the procurement of construction works and services and would, on the other hand, improve quality and overall capability.”

There was general consensus, Madam Speaker, in this House in 2008, when the main Bill was passed and it should be this way, because any person who has been engaged in construction, any one of us here who had a house built knows the trouble of selecting a contractor. We have no criteria of selection; we go by words of mouth, at our own expense. The registration would have provided clear criteria. You want to construct such house, you have such type of engineer. You - the Government - want to come ahead with a certain type of project: you have grade A, you have grade B, you have grade C as contractors. And that was helpful also for the contractors; they knew what were their grades. So, whenever there was a public tender or private tender, they would already focus on that particular job description. And what is more interesting, Madam Speaker, is - and I went through the debates - the one person who made the most passionate speech on that day was hon. Bodha. I totally agree with what he said. He had done research on South Africa and other African countries and he was very forceful. He said that registration will provide a performance record for contractors, regulate the behaviour and promote minimum standards and based practice of contractors.

Registration would resolve the problem of delay, and quality would reduce administrative burden associated with the award of contract, reduce tendering cost. He even stated that registration will enhance democratisation. That was when he was in the Opposition. Now that he is the hon. Minister - even last week, in his intervention, the hon.

Minister highlighted the benefit of registration of consultants and contractors. I am not going to repeat whatever the hon. Minister said, save and only that we fully agree with all the reasons he put forward to have contractors and consultants registered. Why? Because we know the Terre Rouge-Verdun fiasco. We know the Ring Road fiasco. We know the Bagatelle fiasco. We need to have a register, so that we can ensure that there is not a repeat of Terre Rouge-Verdun, of Ring Road, of Bagatelle Dam and other things. But this is exactly what we are not doing today! Today we are not requiring contractors to register. Today, we are not requiring consultants to register.

Madam Speaker, what is more hurtful is that this Government had the bold initiative, welcome initiative of appointing a Minister - unfortunately, he is not here - of Good Governance. Good governance requires you, when you do your tender process, to give the job to the most qualified contractor, to the most qualified consultant. Good governance requires that before someone applies we know his qualification. This is good governance! Then, we do not waste time, we do not have, as what was said yesterday in the press and I quote from the people in the industry –

«Les deux représentants du secteur affirment à l'unanimité qu'il y a un manque d'inscription régulière par les institutions concernées, ce qui a entraîné une hausse de contracteurs marrons.»

We were talking about *universités marrons*. If you do not regulate contractors, if you do not regulate consultants, you are bound to end up with *contracteurs marrons*, *consultants marrons*. If you have these, obviously, you would have the problems that we are having when we allocate tender to those who do not qualify or should not have qualified.

When you have a registration process which is valid for one year, there is a monitoring because if during that period of one year you have not performed, the Board can cancel your register and take sanctions against you if you have been convicted of an offence of fraud or you have been found guilty of malpractices.

Madam Speaker, the other reason which the hon. Minister advanced for today's Bill is that we are only extending the transitional period. He is not saying that we are not registering. He says that we are only extending the transitional period; later on, we will have to register. But is it what we are doing? Are we extending the transitional period of registration? Let me enlighten the House on what the situation is today. When the Bill was voted in 2008, there

was a transitional provision in section 37 (2) (a), which indeed provided that any firm which is providing consultancy services, or undertaking construction works at the commencement of sections 19 and 20 - that is, as at 01 August 2014 because that is when this section came into being - shall within six months of the commencement of sections 19 and 20 apply for registration as consultant or contractor.

So, there was a delay of six months given to those who were already providing consultancy services or undertaking construction works. They were given a six months' time frame which was voted and approved by Parliament so as to give them sufficient time to compute whatever documentation or information required for the purpose of registration and to ensure that there is continuity in the project pending their registration process.

But today, what we are being asked to do, Madam Speaker, is to allow these contractors and consultants to work indefinitely without any registration, or worst to continue to work without registration indefinitely until such period as may be prescribed by the Minister.

(Interruptions)

From a sitting position, the hon. Minister is talking about six months. But why is it not in the Bill? Why don't we have an extension of six months?

(Interruptions)

Now it is taken away from the august Assembly, from hon. Members, and it is given to the *bon vouloir du ministre*. By regulation, he will decide. He said six months and if he wants to make it 10 years, he can do it!

(Interruptions)

He can do it because it is outside the purview of this House. So, if he had intended six months - as he is saying from a sitting position - I would have expected an amendment to say that they are given another six months and not that they can work until such time as may be prescribed by regulation.

Madam Speaker, being given that there is consensus in this House and outside this House that we need to regulate consultants and contractors, then the question on everybody's

mind is: why are we postponing registration? Why are we giving them more time to register?

The hon. Minister stated last week and I quote –

“(...) quite a fairly large number of employees of these consultants and contractors would be laid off (...)”

If we don't do this amendment, if we don't compel them to register, they will have to lay off employees. The hon. Minister can enlighten the House; he can tell us how many employees would be sacked according to him. But is it not the case that already most of the big players, most of the grade A contractors and most of those heavy employers who recruit most employees have already registered? It is only the *contracteurs marrons* who have not yet registered. Those who are serious were given six months and they have registered. In any event, Madam Speaker, how can we, in the name of job preservation, sacrifice good governance at the risk of having another Terre Rouge-Verdun, another Bagatelle Dam or another Ring Road?

The second reason which the hon. Minister advances is that - it is quite surprising and I quote –

“(...) consultants and contractors are reluctant to register as this would imply that they would have to comply with a number of criteria which would, ultimately, determine their real capabilities in undertaking contracts for infrastructural projects.”

But, Madam Speaker, this is exactly why they have to register! They have to register so that we can determine their real capabilities in undertaking contracts! It should not be because they don't fulfil the criteria, they can't provide the information or they don't have qualified engineers and project managers, we allow them to work. That should be the main reason to object this Bill coming from the hon. Minister, not the reason to postpone registration again. What about good governance and all this?

Madam Speaker, I have thought a lot about this and after reading the hon. Minister's speech last week and in 2008 to really think why is it that the hon. Minister Bodha who agrees that we need to register these consultants, and obviously he is very passionate about this registration process, why then are we amending the law? Why are we saying that they don't have to register and they can continue to work? Madam Speaker, the answer lies in a directive issued on 27 November 2014 by the Procurement Policy Office, section 7, and I quote –

“For procurement proceedings to be conducted henceforth, public bodies should ensure that bidders comply with the registration requirements of the CIDB as prerequisites for eligibility to bid and to meet the qualification criteria contained in standard bidding documents.”

This is the real reason, Madam Speaker! If you are not registered, you cannot participate in public bidding. Even sub-contractors and sub-consultants must be registered, otherwise they cannot participate in public tenders. We all know what is the date today. We all know that we are 20th of March. We all know what is going to happen on Monday, 23 March. We will have the Budget. We will have money. We will have public tenders. We will have to give jobs for the boys and girls, *copains et copines*. So, these people who today do not qualify...

(Interruptions)

... are not registered and they probably do not meet the required criteria. We will have to make do with them, we will have to give them the leeway because we will have to put our *Viré Mam* first, Madam Speaker!

Madam Speaker, the hon. Leader of the Opposition was right when he said “*A peine 100 jours se sont écoulés, les masques commencent à tomber, la désillusion s’installe. Ploré Mam!*”

Thank you.

Madam Speaker: Hon. Fowdar!

(3.04 p.m.)

Mr S. Fowdar (Third Member for Grand’ Baie & Poudre d’Or): Madam Speaker, let me first of all congratulate my good friend, hon. Minister Bodha for bringing this Bill to the House although the Opposition is claiming that it is too late or too early, I do not understand. We are in Government only a couple of months and the Bill has been brought to the House.

I listened carefully to the speech made by hon. Minister Bodha last Saturday. I was outraged. It was surprising that the preceding Government took six years to bring a very simple regulation for an important sector of the economy, a vital sector of the economy, that

is, the construction sector. They took six years! Yet, the previous Government has always been blowing its trumpet on what it has achieved and it is still blowing its trumpet on what it has done. An important sector like construction has been neglected. The hon. Minister stated last week that only 140 consultants and 1,400 contractors were not registered.

This is serious, Madam Speaker. We have only 60 consultants and 100 contractors who are being registered. I congratulate the hon. Minister for taking this matter as being urgent. I fail to understand why the Opposition feels it is not urgent. It is urgent. It goes for the Government to protect the interests of the customers. And if we do not have a regulated sector, you can't control things. It is unacceptable that all these contractors and consultants are operating now illegally. I don't know why they are not registered. It seems to me that either they are not registered because they don't qualify, they do not respect the norms or probably they are hiding their true grades which will enable them to bid for bigger projects below their capacities. I think it is a real danger to let them. But, I am happy that the hon. Minister has just stated that he is going to give another six months for them to register. I am sure that the Ministry - the officers of the Ministry are here - will chase those unregistered consultants and contractors to get them registered as quickly as possible.

Madam Speaker, we are speaking about the construction sector. We all know that the construction industry plays an important role in the economy. It is the engine itself of the economy. *Nous savons tous ce qui se passera si rien ne va plus, si l'industrie de la construction ne va pas.* The activities of the industry are vital to achieve the socio-economic goals of providing shelter, infrastructure and employment. It is clear, Madam Speaker, that the construction industry affects nearly every aspect of the economy and its growth is vital for the continued growth of the economy.

Last Saturday, the hon. Minister stated that the growth rate of the industry dropped from 11.1% in 2008 to 6.7% last year. A drop of nearly 40%. The fact that the construction sector has an effect on all the other sectors of the economy has been a serious loss for the economy during these last years due to the negligence of the previous Government on this sector. I always had the impression from the last Government that the previous Minister of Public Infrastructure was the most performing Minister; so many roads and so many works done. *Mais le masque tombe!* Just like my good friend has just stated, Madam Speaker. Today, we all know what he is doing. One of this is the construction sector. We know Bagatelle. We know Terre Rouge-Verdun. There is a lot!

Madam Speaker, every sector of the economy needs to be properly regulated for a smooth running and for its success itself. Only discipline and compliance with the law will enable a systematic growth and will bring benefits to the country. Another construction industry is the engine of the economy and I am happy that the hon. Minister brought this Bill as early as he could to this House. I know that the public sector is protected because the Public Procurement Office undertakes only bids from registered consultants and contractors, but the private sector and the public at large are at risk when they are dealing with unregistered consultants and contractors.

Madam Speaker, I also welcome the amendments brought to section 2 of the Act, to rectify the anomalous issue regarding foreign and local consultants and contractors. The foreign consultants and contractors have been privileged for a long time and they had an edge over the local contractors and consultants. I am happy that this is being rectified now and they will be on equal footing.

One last thing, Madam Speaker, is regarding the composition of the Board. I don't have any quarrel with the members in the Board. I am happy that we've got a very good professional as the Chairman of the Board. A person of long-standing. A person who knows the work. So, I congratulate the hon. Minister for appointing the Chairman for the CIDB. But, Madam Speaker, I would request my good friend, hon. Bodha to see whether the HRDC, which is responsible for manpower planning, could be on the Board probably as an observer as well, just to keep them abreast of the needs of the sector and the training needs also. Because the HRDC will then communicate to the MITD and to the other training providers on what sort of people we need in the construction sector. I know that - being an ex-Minister for Training - this is a sector which needs training although we just feel that no people just know by experience, but we have to train these people and training will give better results, good products and bring benefit to the economy.

So, Madam Speaker, I would once again congratulate my friend and together with him, I commend the Bill to the House.

Thank you.

(3.13 p.m.)

Mr E. Jhuboo (Third Member for Savanne & Black River): Madam Speaker, I would like to thank you for giving me the opportunity to comment on the CIDB Bill. The

construction industry being a sector which I am familiar with, therefore, I would like to highlight the following.

Madame la présidente, comme de nombreux professionnels du secteur, je suis d'avis que l'industrie de la construction a besoin d'un meilleur encadrement et des lois plus adaptées aux réalités actuelles. Et les amendements proposés, en l'occurrence l'enregistrement des consultants et contracteurs, ainsi que la réintroduction du *grading system* sont accueillis favorablement et seront une bonne avancée; une avancée même salubre pour l'industrie. Cependant, certains amendements proposés, à mon avis, méritent d'être plus ambitieux. Prenons tout d'abord la question des consultants ou compagnies étrangères, objets de la section 2 du *CIDB Bill*.

Madame la présidente, si nous faisons un rapide retour dans le passé, attirer des compagnies étrangères avait deux vertus. La première de notre phase de décollage économique, des compagnies telles que Transinvest pour des travaux routiers nous ont accompagnés car nous ne disposions pas, alors, de l'expertise locale; s'ensuivit d'une deuxième vague d'entreprises étrangères en raison de la compétitivité de leurs coûts de construction ou encore par rapport aux lignes de crédit ou de financement octroyées par leurs pays d'origine qui se sont implantés. Maurice a eu besoin de ces apports de compagnies étrangères pour accompagner notre développement. Il est évident que nous avons aujourd'hui des compagnies mauriciennes capables de réaliser techniquement les mêmes travaux. Mais il est dangereux d'installer des barrières protectionnistes trop fortes.

Le dilemme d'aujourd'hui est de trouver le juste milieu ; l'équilibre entre la protection de notre industrie locale et l'emploi local qui doit être au centre de nos préoccupations, tout en ayant des prix compétitifs qui seront répercutés sur le consommateur final, l'État. L'État a besoin de routes, de logements sociaux, de bâtiments qui sont structurellement viables et à des coûts attractifs, et la même logique s'applique au privé.

De nombreuses questions, Madame la présidente, méritent d'être posées. Entre autres, comment est-ce qu'une entreprise, en l'occurrence chinoise, est-elle capable d'écraser ses coûts par rapport à une entreprise mauricienne ? Premièrement, son *cash flow*. Elle paye généralement ses employés en fin d'année. Les employés reçoivent un *stipend*, mais la majeure partie du salaire est versée à la Fête du Printemps. Ces compagnies font fi de nos lois locales, en l'occurrence les heures légales de travail, ses employés sont beaucoup plus productifs que les nôtres, et elles *source* tous ses équipements en Chine ; Bobcats, grues,

clous, ferrailles, uniformes, céramiques, sanitaires, et j'en passe. Donc, comment au-delà d'une barrière administrative, rendre nos entreprises plus compétitives ? Madame la présidente, c'est là la vraie question.

Il faut savoir la chose suivante. Il existe déjà une barrière protectionniste - vous le savez. Dans l'exercice de sélection, nous avons déjà une barrière protectionniste et administrative qui est la suivante : elle s'appelle le *margin of preference*. Pour tout contrat supérieur à 100 millions de roupies, une entreprise incorporée à Maurice, donc, de droit, mauricien, et qui emploie plus de 80 % de la main-d'œuvre locale, bénéficie d'un *margin of preference* de 10 à 15 % par rapport à toute autre entreprise étrangère. Quelles sont les autres solutions ?

La première, soit augmenter ce *margin of preference*, le passer de 15 à 20 ; une possibilité pour soulager notre industrie locale. Deuxièmement, favoriser les *joint ventures* avec les entreprises étrangères, afin que nos entreprises locales apprennent à se réinventer, comment *source* différemment, comment comprendre le mécanisme qui fait que les ouvriers chinois soient plus productifs que les nôtres, et qu'elles réalisent désormais que nous vivons dans un monde global, et à ce titre elles pourraient rivaliser et se projeter même en Afrique ou sur la zone de l'océan Indien, tant et si bien qu'elles apprennent à se réinventer. Troisièmement, sous prétexte de nous octroyer des lignes de crédit, certains pays amis nous imposent des contacteurs étrangers. Cela doit s'arrêter, car le montant des variations est abyssal, et la variation sur un contrat, comme vous l'avez mentionné, Monsieur le ministre, doit être l'exception et non pas la règle.

Un autre point fondamental, Madame la présidente, est le suivant ; et en cela j'ai circulé un amendement que je propose d'amener au *Committee Stage*, et je cite la déclaration du ministre en deuxième lecture -

“The Mauritius Institute of Surveyors, the Mauritius Standards Bureau, the Ministry responsible for the subject of Employment and the Ministry responsible for the subject of Human Resources Development are being replaced by the Ministry of Environment and the Ministry of Local Government as these two Ministries have a very direct interest and involvement in the construction industry.”

Retirer le représentant du ministère du Travail ou du *HRDC* de ce *Board*, Madame la présidente, est à mon avis une profonde erreur, et je vais vous expliquer pourquoi. Le *Board*

du *CIDB* est le forum où tous les acteurs de la construction seront mis en présence, et à ce titre seront en interaction - constructeurs, ingénieurs, QS - et cet organisme sera l'épicentre de tous les projets majeurs.

Le gouvernement a annoncé la création d'une Chambre de Métiers qui regrouperait toutes les formations en relation avec la construction ; apprenti, charpentier, maçon, peintre, plombier et tant d'autres corps de métiers liés au bâtiment. Il me semble évident, Madame la présidente, que le *CIDB* a un rôle majeur à jouer dans la mise en place et dans le fonctionnement de cette future Chambre de Métiers. Il me semble évident que le représentant de ce futur organisme, qu'il soit sous le ministère du Travail ou de l'Education, soit représenté sur le *Board* du *CIDB*, car il est appelé à être *de facto* l'interface entre le système éducatif et l'entreprise. On pourrait même imaginer que lors de l'enregistrement annuel des différentes entreprises du secteur, ces dernières fassent part de leur capacité d'accueil des apprentis.

Par ailleurs, Madame la présidente, j'aimerais faire ressortir que le *YEP* devrait aussi être amendé pour permettre à un apprenti qui est déjà employé et qui souhaite avoir une formation en parallèle puisse le faire, et à ce titre le *YEP* devrait faire place aux employés qui souhaitent recevoir une formation dans le cadre de la Chambre de Métiers.

Finalement, un autre point technique, Madame la présidente, concerne la garantie décennale présente dans notre Code civil, qui stipule que, pour toute construction réalisée, le contracteur s'engage à réparer structurellement tout défaut, et ce pendant une période de 10 ans ; donc, d'où la garantie décennale. En France, cette garantie est inscrite dans le Code civil comme à Maurice, sauf qu'en France la loi exige du promoteur une assurance de garantie décennale dans l'éventualité où le contracteur ne pourrait honorer ses engagements dans le cas de faillite, le départ du territoire. À Maurice, certains promoteurs respectueux de leurs clients et soucieux de préserver leur réputation, prennent cette assurance qui est de l'ordre de 2 à 3 %. Il serait judicieux d'introduire cette loi, l'assurance de la garantie décennale, à la charge du promoteur immobilier. Il faudra bien sûr veiller à ce que le ministre des Finances, en qui j'ai confiance, revoie ces honoraires à la baisse.

Madame la présidente, pour conclure, je tiens à féliciter le ministre pour la nomination de Monsieur Gaëtan Siew, professionnel reconnu dans le domaine, et je lui souhaite bonne chance.

Merci.

(3.20 p.m.)

The Minister of Public Infrastructure and Land Transport (Mr N. Bodha):
Madam Speaker, I would like to thank my hon. friends on both sides of the House to have participated in the debate. They explained the urgency, why we brought the Bill.

Let me just take one project to address a number of issues which have been, in fact, raised by hon. Members here. First of all, it took six years for the regulations. I think it took too long. Second, most of the big projects which have been undertaken in Mauritius in the last years were undertaken, in fact, by companies, by contractors and consultants who are not registered, because there have been applications for registration. So, in fact, there is no registration as such so far.

I would like to say to the House that the transition period that we are going to extend - I said six months; my officers are proposing one year - is only for the reason of practicality, that is, we are giving another six months or a year - I can assure the Assembly here - for the registration period. That's all! So, there is no hidden agenda or ulterior motive. It is a question of practicality, it is a question of efficacy, and it is a question for the Board now to come with the communication strategy, to encourage everybody, all the contractors and all the consultants to be on the register.

Let me take this project of Terre Rouge-Verdun, Madam Speaker. Today, I, in fact, informed my colleagues in Government that - and this is the truth - the tests which were carried out in this major project, which were supposed to cost Rs2.1 billion - today we know - were inadequate; totally inadequate. They started at Rs2.1 billion and reached Rs3 billion and, at that point in time, they realised that where they were cutting the mountain, the variation would cost about Rs900 m. and could not be entertained in the same project. So, we had phase II, and now we realise that the tests were inadequate by Egis BCEOM, that the detailed design of that project for Rs900 m. had not been completed, and they gave the authority to go to the Procurement Board to launch the tenders.

Now, how do we take them to task? How do we deregister companies which have, in fact, cost us hundreds of millions of rupees? That is where the CIDB will have to play its role. The registration, today, is the first step, and we will see to it that, within the transition period, be it six months or a year, all the contractors and the consultants register. The Board

then will have also a register of all the projects; public or private. For public projects, we have this condition that if you do not register you can't apply for a tender.

For the private projects, they will also have to decide to choose a contractor according to the grades which will have been registered at the Board and then we will have a record of all the projects, public or private, and we will know which is the consulting company and which contracting company is going to implement the project.

My friend, from the other side of the House, raised one issue about the Government to Government projects, but projects funded by Lines of Credit. You have some projects which are funded by Lines of Credit. For example, *l'Agence Française de Développement, ce qui nous donne la possibilité de faire un appel d'offres international et toute compagnie qualifiée peut faire une offre. Donc, la ligne de crédit n'est pas assujettie d'une contrainte dans le choix du consultant ou du contracteur.* But, when it comes to China, for example, we know what are the conditions, and often, you find yourself with two Chinese companies bidding against each other.

Let me now raise one issue. We have been here for three months; we are not responsible for what has happened.

(Interruptions)

Entre guillemets! So, Madam Speaker, let me give you an example. How come the former Minister allowed lorries to come - which were old lorries - from China? Sinohydro brought them! We have seen the lorries. How come that the drivers of those lorries were Chinese and they were carrying the topsoil, and everything, during the implementation of that Sinohydro Project on the third lane? I am going to request the CIDB to see to it that, now, plant and machinery, which is available in Mauritius, should not be imported because we have so many people who have taken a loan to buy a lorry and who were trying to provide their services.

I think we have to review the whole industry when it comes to standards. I remember my speech; I still stand by all I said. We need to have the standards. Otherwise, what is going to happen? Tomorrow, we are going to start the Ring Road Phase 2, the Ring Road Phase 3, we have the Bagatelle Dam, we are going to build other dams, we are going to dig a tunnel under the Signal Mountain, so we need to have the best firms. We need to have the best standards and value for money. We can't start a project of Terre Rouge-Verdun which starts with Rs2.1 billion and, today, we are already at Rs4 billion! And now, we have not yet

addressed the issue of the last cracks, which will cost, I don't know how many millions - hundreds of millions of rupees. So, Madam Speaker, the role of the CIDB starts now because we want accountability, we want the best standards and we want everybody to be on board.

Now, there was this anomaly about the foreign consultancy; things are clear now. You are a non-citizen, whether you are a resident of Mauritius or not, you qualify as a foreign consultant. There is no prequalification as regards your aggregate performance of four years in the past, prior to 1999, everybody is at the same level and this is as regards the consultancy. We have thought about it. My friend, the Vice-Prime Minister, Minister of Energy and Public Utilities, hon. Collendavelloo, and some other friends on this side of the House, we thought about this. Why we are doing this, Madam Speaker? Because, the Mauritian market has to be regulated, the players have to be regulated, there should be accountability.

Now, I am going to take the example of the Terre Rouge-Verdun again. Who is responsible for what has happened and which is going to cost Mauritius another billion rupees? Who do we sue? I refer to what hon. Jhuboo said about *la garantie décennale*; this is true. He made a good suggestion that we should have an insurance, a written commitment by the company that, over ten years, we have a guarantee that the works were done according to standards. We have the non-defect liability period of one year, which, in the case of the Ring Road which collapsed, has been able to be implemented and they are now doing the repair works and it is going to be paid from that money. But, when it comes to Terre Rouge-Verdun, the road has cracked two months after a year; that is, after the non-defect liability period, Madam Speaker.

So, the role of the CIDB will be, first, to register the contractors and the consultants, and it will be very clear who is a foreign one and who is a local one. Second, the local contractor will have a registration for a year and the foreign contractor will have a registration over two stages, a provisional for the bidding and a temporary for the time of implementation of the project. I think, Madam Speaker, that we have to regulate that industry.

I will just say a few words about the Board. We have to regulate the industry because we have to spend in the coming years some Rs20 billion, Rs30 billion, again in the modernisation of Mauritius, like roads, tunnels, dams, and that is where the CIDB will come with a list and they will have to register. They will be registered, they will be accountable and they will do the bidding as required - I think the hon. Minister of Finance and Economic

Development has agreed. We have agreed that we will go for international bidding processes for all the major big projects. We are not going to have this G to G or having this, as we said, “bidding” between two companies of the same country.

Now, Madam Speaker, let me take this example about the whole project for the decongestion which the former Minister presented to this House for about Rs30 billion. In the end, there was only one company and we were getting involved in a project of Rs30 billion and Government was financing, in fact, Rs20 billion as a loan in advance. So, all these things have to stop. There should be accountability and this variation that we have had over the projects. I have nominated at the Road Development Authority (RDA), the former Chairperson of the Council of Engineers, Mr Wong So, because I want things to be done, this Government wants things to be done; there should be no variation. We should have value for money. The Rt. hon. Prime Minister, this is his state of mind. This is our state of mind; this is our culture and, at the same time, we want to have value for money when it comes to the other projects. I am very happy that the House pays tribute to Mr Gaëtan Siew. In fact, he is a school friend of mine and I would...

(Interruptions)

He is a school friend of mine; we both come from the Royal College of Cassis. We have worked together in the beginning when I came back, because I am a town planner. I am very happy that he accepted, with all the challenges that we have to address in this industry. Mr Gaëtan Siew is an architect of international repute. The CIDB, the RDA, all our institutions will have to get involved in what we are going to do again, we are redesigning the time and country planning network of Mauritius, with the new satellite city, with the new dams, with the new roads structure and with the new mass transit system; because, if you have Highlands as a satellite city and we are going to have Port Louis, it is a totally new image of Mauritius. To build that, we need institutions and that is why we came fast with this amendment. We have no ulterior motives, we have no hidden agenda, the only thing that we have, is that it should be done in the best interest of the professionals and in the best interest of the country.

Thank you, Madam Speaker.

Question put and agreed to.

Bill read a second time and committed.

COMMITTEE STAGE

(Madam Speaker in the Chair)

THE CONSTRUCTION INDUSTRY DEVELOPMENT BOARD (AMENDMENT)**BILL****(NO. II OF 2015)**

Clauses 1 to 3 ordered to stand part of the Bill.

Clause 4 (Section 8 of principal Act amended).

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

Mr Jhuboo: I move for the following amendments in clause 4 -

“By deleting paragraph (a) and replacing it by the following paragraph –

- (a) in subsection (2), by repealing paragraphs (b) to (k) and replacing them by the following paragraphs –
 - (b) a representative of the Ministry;
 - (c) a representative of the Ministry responsible for the subject of environment;
 - (d) a representative of the Ministry responsible for the subject of local government;
 - (e) a representative of the Ministry responsible for the subject of human resource;
 - (f) a representative of the Ministry responsible for the subject of employment;
 - (g) a representative of the Professional Architects’ Council established under the Professional Architects’ Council Act;
 - (h) a representative of the Professional Quantity Surveyors’ Council established under the Professional Quantity Surveyors’ Council Act;
 - (i) a representative of the Council of Registered Professional Engineers of Mauritius established under the Registered Professional Engineers Council Act;

- (j) a representative of the small and medium enterprises of the construction sector, to be appointed by the Minister;
- (k) a representative of an association of contractors for building and civil engineering works, to be appointed by the Minister;
- (l) a representative of an association of contractors for mechanical and electrical works, to be appointed by the Minister;
- (m) a person having wide experience in the construction industry, to be appointed by the Minister.

Amendments defeated.

Clause 4 ordered to stand part of the Bill.

Clauses 5 to 8 ordered to stand part of the Bill.

The title and the enacting clause were agreed to.

The Bill 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 Construction Industry Development Board (Amendment) Bill (No. II of 2015) was read the third time and passed.

ADJOURNMENT

The Prime Minister: Madam Speaker, I beg to move that this Assembly do now adjourn to Monday 23 March 2015 at 5.00 p.m.

Mr P. Jugnauth rose and seconded.

Question put and agreed to.

Madam Speaker: The House stands adjourned.

MATTER RAISED

(3.38 p.m.)

ROCHE BOIS – THIRD LANE - CONSTRUCTION

Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East):

Madam Speaker, my point concerns the Minister of Public Infrastructure.

J'ai un point pour l'ajournement. Cela concerne la troisième voie. Au fait, j'aurai besoin de l'honorable ministre des Infrastructures publiques, mais il s'en va. Non, l'honorable ministre revient ! Donc, cela concerne la troisième voie qui est en construction à Roche Bois. Au fait, ce qui se passe c'est qu'auparavant il y avait un trottoir qui longeait le Princes Tuna jusqu'au rond-point Abattoir ; on appelle ça aussi le rond-point Cocoterie. Les piétons s'en servaient surtout dans l'après-midi pour retourner à la maison, mais avec la construction de la troisième voie, ça a été enlevé. Hier, dans l'après-midi et dans la soirée, il y avait eu beaucoup de gens qui ont contesté l'enlèvement de ce trottoir. Cela a causé pas mal de problèmes à ces personnes. Etant le député de la circonscription, ils m'ont alerté, et je suis allé sur place pour voir de visu. Donc, j'adresse ce problème à l'honorable ministre des Infrastructures publiques, s'il peut rectifier le tir avec ses ingénieurs par rapport à ce problème de trottoir qui se trouve sur le tronçon de l'autoroute qui mène vers la capitale.

Merci, Madame la présidente.

The Minister of Public Infrastructure and Land Transport (Mr N. Bodha):

Madam Speaker, the problem, again, is how to reconcile the priorities of the road users. In fact, we have just counted the number of vehicles at peak time; 2,000 vehicles took that third lane to be able to enter into Port Louis, to some extent to alleviate the whole congestion problem with the closure of the road. Now, the Terre Rouge-Verdun Road most probably will have a diversion in about two weeks, which will help us to address this issue. Anyway, I am going to talk to the engineers at the RDA to see what can be done.

Thank you.

At 3.38 p.m. the Assembly was, on its rising, adjourned to Monday 23 March 2015 at 5.00 p.m.