



**FIFTH NATIONAL ASSEMBLY**

**PARLIAMENTARY**

**DEBATES**

**(HANSARD)**

**SECOND SESSION**

**TUESDAY 09 APRIL 2013**

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Members

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**MAURITIUS**

**Fifth National Assembly**

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**SECOND SESSION**

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**Debate No. 03 of 2013**

**Sitting of 09 April 2013**

**The Assembly met in the Assembly House, Port Louis,**

**At 11.30 a.m**

**The National Anthem was played**

*(Mr Speaker in the Chair)*

**PAPERS LAID**

**The Prime Minister:** Sir, the Papers have been laid on the Table -

**A. Ministry of Finance and Economic Development -**

- (a) The Digest of Demographic Statistics 2011.
- (b) The Digest of Road Transport and Road Accident Statistics 2011.
- (c) The Insurance (Amendment) Regulations 2013 (Government Notice No. 66 of 2013).
- (d) The Securities (Investment by Foreign Investors) (Revocation) Rule 2013 (Government Notice No. 67 of 2013).
- (e) The Securities (Investment by Foreign Investors) Rule 2013 (Government Notice No. 68 of 2013).
- (f) The Securities (Licensing) (Amendment) Rules 2013 (Government Notice No. 69 of 2013).
- (g) The Securities (Disclosure Obligations of Reporting Issuers) (Amendment) Rules 2013 (Government Notice No. 70 of 2013).

**B. Ministry of Public Infrastructure, National Development Unit, Land Transport and Shipping –**

The Road Traffic (Amendment of Schedule) Regulations 2013 (Government Notice No. 65 of 2013).

**C. Ministry of Youth and Sports -**

The Sports (Amendment of Schedule) Regulations 2013 (Government Notice No. 62 of 2013).

**D. Ministry of Labour, Industrial Relations and Employment -**

The Employment (Non-Citizens) (Restriction) Exemptions (Amendment) Regulations 2013 (Government Notice No. 61 of 2013).

**E. Attorney General's Office -**

The Institute for Judicial and Legal Studies (Course Fee for Prospective Judicial and Legal Officers) Regulations 2013 (Government Notice No. 60 of 2013).

**F. Ministry of Health and Quality of Life -**

(a) The Medical Council (Medical Institutions) (Amendment) Regulations 2013 (Government Notice No. 63 of 2013).

(b) The Dental Council (Medical Institutions) (Amendment) Regulations 2013 (Government Notice No. 64 of 2013).

**G. Ministry of Industry and Commerce and Consumer Protection -**

The Rodrigues Consumer Protection (Control of Price of Taxable and Non-Taxable Goods) (Amendment No. 8) Regulations 2013 (Government Notice No. 67 of 2013).



## ORAL ANSWERS TO QUESTIONS

### CAUDAN, PLACE D'ARMES & M1 ROAD - ROAD INFRASTRUCTURE

**The Leader of the Opposition (Mr A. Ganoo)** (*by Private Notice*) asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to the road infrastructure, he will, for the benefit of the House, obtain from the Road Development Authority, information as to -

- (a) the works undertaken in the city centre, in particular, around the Caudan and the Place d'Armes, since 13 February 2013;
- (b) if, in regard to the M1 Road -
  - (i) in the contract for the widening thereof, from Pailles to Caudan, the construction of the side drains was included, indicating if the size thereof has been reduced and, if so, why and, if copy thereof will be tabled, and
  - (ii) the contractor of the third lane thereof had obstructed the water flow of the Ruisseau du Pouce thus hindering its effective discharge to the sea before 13 February 2013, and
- (c) whether, in regard to the Ring Road Project, Diospyros Ltd. (Mauritius) submitted a report thereto, in June 2011, warning of the risks of landslides and flooding in case of torrential rains.

**Mr Bachoo:** Mr Speaker Sir, first of all, I take this opportunity to dissipate so much passion and perhaps confusion which have been generated while targeting...

*(Interruptions)*

**Mr Speaker:** Silence! I would appeal to hon. Members to let the proceedings be conducted in a serene manner. A question has been put to the hon. Minister. It is quite fair that he should be given the chance and opportunity to answer not only for the benefit of the House, but for the benefit of the public in general. Thank you.

**Mr Bachoo:** Mr Speaker, Sir, first of all, I take this opportunity to dissipate so much passion and perhaps confusion which have been generated while targeting the road infrastructure development in the area around Caudan and Place d'Armes.

It would be important to inform the House at the risk of repeating what the Government has been explaining that what we witnessed on Saturday 30 March 2013 was simply unpredictable phenomenon.

The intensity of rain registered clearly demonstrates that never before, has Port Louis been subject to such a heavy downpour. 152 millimetres were registered over a two-hour period. This is a global phenomenon whereby the rainfall pattern has changed and we are witnessing micro extreme climate situation which explains the rainfall intensity in the region of Port Louis.

Mr Speaker, Sir, it would also be worth reminding that Place d'Armes and the surrounding area are found on reclaimed land. Such being the case, the soil texture is such that it has a relatively very poor absorption capacity.

Mr Speaker, Sir, for recall, I wish to inform the House that motorway through Port Louis passing through the Place d'Armes was constructed in 1989. The outlet for surface water was towards the sea. In 1996 the Caudan Waterfront project was implemented. This private sector project is located between Place d'Armes and the sea and is at a higher level. Within that project, the outlet to the sea was maintained by construction of two underground drains. These outlets are maintained by State Property Development Corporation.

To compound the problem, the area we are referring to is a densely built up area, thus imposing serious constraints in terms of any sustainable infrastructure adjustment and upgrading. Besides the subject side, that is, Place d'Armes involves many stakeholders; the main ones being the Municipality of Port Louis and the State Property Development Company.

Following the flash flood which occurred on 13 February 2013, I arranged for officers of my Ministry to carry out a survey and identify the remedial measures that were required. Given the specificity of the site and the inherent constraints, it was found that a comprehensive study should be commissioned so that feasible and sustainable corrective measures could be applied. For that purpose, an international Consultancy Antonaropoulous Firm, an Associate together with Desai Associates has been assigned the consultancy services.

Among others, the Consultant is required to draw up an inventory of existing drainage infrastructure, rivers, water crossings and other natural water course and assess the hydraulic properties and adequacy of the drainage systems.

Mr Speaker, Sir, however, it is important to point out that, upstream of the subject site, there are numerous works which have already been undertaken in terms of upgrading of Canal Bissoon, Canal Anglais, Impasse Chalet in Vallée Pitot and upgrading of Canal Kitchri in Tranquebar. Works order was issued on 06 March 2013. Irrespective of the fact that the responsibility to undertake these works devolves on other bodies, that is, the local authorities, my Ministry has caused needful to be done.

Mr Speaker Sir, since 13 February 2013, I have mobilized all the services falling under the purview of my Ministry and numerous actions have been initiated to upgrade the relevant physical infrastructure and drains to prepare Mauritius to face, to the greatest possible extent, natural calamities more effectively.

Mr Speaker Sir, in regard to part (b) (i) of the question, I have to inform the House that the widening of the Motorway from Pailles to Caudan was undertaken as from September 2009. The drainage system has been maintained and improved where necessary, and certainly it has not been reduced. A total length of 3.0 km of new drains has been provided in the contract and existing drains along the sides at other places have been provided. Four cross-drains at Montebello, Desbro, Bell Village and Cassis have also been provided.

The dimension of the new drains is 700 mm x 700 mm and along the central verge, a circular drain of diameter 400 mm has been provided.

Roadside drains are designed, on the basis of expert advice and in line with international norms. On 30 March 2013, a very exceptional rain intensity was recorded. Water from the mountains poured into the Motorway in torrents.

No drain design or dimension would have catered for such a downpour. However, as soon as the rain receded, it was observed that the excess water was drained away through the existing drainage system very quickly.

Mr Speaker Sir, as regards part (b) (ii), I am informed that before 13 February 2013, works in Ruisseau du Pouce consisted of piling works being undertaken by the Contractor (General Construction Co. Ltd).

The water coming towards the site of works from La Poudrière canal and le Pouce stream covers a discharge area of 16 square meters, the discharge area under the bridge at the site is 36 square meters. During construction of the piling works, a flow well above the 16 square meters was maintained permanently. I am informed that no overflow has even been observed at that site. However, I must stress that the discharge area is at a minimum at le Pouce stream and at the level of Jardin de la Compagnie and la Chaussée.

Mr Speaker Sir, in regard to part(c) of the question, I wish to inform the House that the part of the Ring Road which has been completed is the first phase of the project which starts at Montebello and ends at Guibies.

The report to which the hon. Leader of the Opposition is referring to is for part 2 of the project which includes the tunnel and continues into the City. This part of the Ring Road has not been designed yet and will be part of the Public Private Partnership Road Decongestion Programme.

In August 2011, CCA Environmental (Proprietary) Ltd and Enviro-Consult Ltd, submitted a report on an Environmental Scoping Study for the PPP Road Decongestion Programme. The report was meant to provide the necessary EIA information to all bidders for them for consideration when the designs will be prepared. I must emphasise that this study concerns Ring Road Lot 2 which starts with Tunnel at Quoin Bluff and ends at Chateau d'Eau, the A1-M1 Bridge and the Harbour Bridge.

The objective of the report was to inform bidders of all environmental concerns which they have to take on board during their design and for the corresponding mitigating measures to be developed and included. In their report on Ring Road Phase 2, the consultants mentioned the following, I quote -

“The road corridor would cross Le Pouce Stream and an un-named feeder of this stream in the upper portion of Tranquebar. These are susceptible to flash floods.”

The Road Development Authority will ensure that the necessary measures are duly captured in the design and construction of the Ring Road Phase 2.

**Mr Ganoo:** Mr Speaker, Sir, the first part of my question concerns, of course, the works undertaken in the central area of Port Louis, the Caudan, the Place d'Armes area and not the periphery of Port Louis. Therefore, may I ask the hon. Minister, firstly, when were the consultants, Mr Desai and his other associates, assigned these consultancy services?

**Mr Bachoo:** Mr Speaker, Sir, just after 13 February, all actions were already initiated under emergency.

**Mr Speaker:** Which date?

**Mr Bachoo:** Well, I do not have the exact date. But, in fact, Mr Speaker, Sir,...

*(Interruptions)*

Let me finish! After 13 February, all actions were initiated. I cannot just pick up my phone and ring a contractor or a consultant and ask him to start doing the work. We had to prepare the documents...

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Bachoo:**...and we had to consult the World Bank, because this project is being financed by the World Bank, we are supposed to have their clearances and that had taken a bit of time.

**Mr Ganoo:** I am not surprised that the Minister does not want to give us the date. Since 13 February, Mr Speaker, Sir, I put it to the hon. Minister; Cabinet met on 15 and 22 February and no Cabinet Decision was taken and announced publicly that any measures were taken in the light of the flash floods of 13 February. I put it to the hon. Minister that, in fact, there was a decision recorded for measures taken for several areas which were flooded, but Port Louis is not mentioned in this Cabinet Decision of the 15<sup>th</sup>.

**Mr Bachoo:** Mr Speaker, Sir, it is not necessary to record all the detailed decisions. Government has given me certain powers to do works and there has been...

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Bachoo:** Mr Speaker, Sir, they have asked me a question, it is my duty to answer. That is the reason why from 2005 till today, we have been able to do so much work in the nook and corner of the country as far as drains and bridges are concerned and...

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Bachoo:**... probably all those who are listening to me, all Members who are sitting here, know in the heart of hearts, the amount of work which has been done. In fact, I maintain it was on 20 February 2013 ...

*(Interruptions)*

**Mr Speaker:** I say order!

**Mr Bachoo:**...consultants were contracted *le 20 février 2013*.

*(Interruptions)*

**Mr Speaker:** Some order! Allow the hon. Leader of the Opposition to put his question!

**Mr Ganoo:** Mr Speaker, Sir, whilst denying the first statement of the Minister that there has never been so much heavy downpours in Port Louis historically, I deny what the hon. Minister said in his first statement when he answered my question.

*(Interruptions)*

**Mr Speaker:** Silence!

*(Interruptions)*

Silence!

*(Interruptions)*

Silence! Hon. Bhagwan, I am on my feet! Hon. Ms Deerpalsing!

*(Interruptions)*

Silence! Don't be provocative and what I am saying does not only address to hon. Ms Deerpalsing! Will hon. Members listen? I do not want any provocation from any quarters.

**Mr Ganoo:** Does the hon. Minister agree that if he had carried out proper works after 13 February of this year with the same haste that his Ministry and RDA are doing now since the last floods of 30 March like pulling down *les parapets* along the Highway, cleaning the drains and other related works, if all these works had been done after 13 February, Mr Speaker, Sir, the toll which we paid in terms of loss of lives would not have been as heavy as it has been?

*(Interruptions)*

**Mr Speaker:** Order!

*(Interruptions)*

I say order!

*(Interruptions)*

Hon. Mohamed and hon. Ameer Meea!

*(Interruptions)*

Hon. Mohamed and hon. Ameer Meea! Hon. Minister, answer!

**Mr Bachoo:** Mr Speaker, Sir, after Government's approval on 15 February 2013, that is, two days after the calamity, Consultancy Services was awarded on 20 February 2013 - fast - and Government approved, among urgent projects, a study to be undertaken at Place d'Armes.

*(Interruptions)*

**Mr Speaker:** I say silence!

*(Interruptions)*

Order! Carry on!

**Mr Bachoo:** Mr Speaker, Sir, the hon. Leader of the Opposition has just stated so much of water in Port Louis. Let us at least be honest to ourselves. Even the CNN has maintained that so much of water

in such a short span of time is impossible for any drain to contain that water. Mr Speaker, Sir, secondly, the hon. Member does not understand. In our Statute book, in our law, it is spelt out clearly...

*(Interruptions)*

**Mr Speaker:** Silence! Allow the hon. Minister to answer, please!

**Mr Bachoo:** Mr Speaker, Sir, cleaning of drains, maintenance of drains and upgrading of drains fall within the purview of the Municipality of Port Louis. It is supposed to do it.

*(Interruptions)*

**Mr Speaker:** Hon. Leader of the Opposition!

*(Interruptions)*

Silence!

*(Interruptions)*

Silence, please! Order!

*(Interruptions)*

I am not going to give any warning. Hon. Leader of the Opposition!

**Mr Ganoo:** Is the hon. Minister aware that, in fact, for the past seven years, it was the *l'Alliance gouvernementale* which had covered several drains in Port Louis.

*(Interruptions)*

I have not finished! Is the hon. Minister aware that the law says: in fact, the Local Authority does not...

*(Interruptions)*

**Mr Speaker:** Hon. Hossen!

*(Interruptions)*

Hon. Hossen, I would like you to catch my eyes. When I say I want some order, I want some order in this House. I have said no provocation, of course, from both sides, from all Members. The hon. Leader of the Opposition must be given the chance to put his question, just as the hon. Minister must be given the chance to answer. We have 30 minutes for the PNQ. Let us make the most of it. I hope hon. Members would understand what I am saying.

**Mr Ganoo:** Is the hon. Minister aware that the law provides that in case the Local Authority, whichever political colour it is, does not live up to its expectations, according to law - it is the Ministry of Local Government which has the duty of doing the job.

*(Interruptions)*

**Mr Bachoo:** Mr Speaker, Sir, after 13 February, nothing was done by the Municipality of Port Louis to clear the drains.

*(Interruptions)*

Secondly ...

**Mr Speaker:** Silence! Order!

*(Interruptions)*

I want some order! Hon. Minister!

**Mr Bachoo:** Secondly, Mr Speaker, Sir, according to the Local Government Act, the construction, control, care, management, maintenance, improvement and cleansing of all pavements, drains, bridges, beds and banks of lakes and rivulets fall under the Municipality of Port Louis. They are to be held responsible!

*(Interruptions)*

**Mr Speaker:** I appeal to you again, hon. Members, let the proceedings be...

*(Interruptions)*

...conducted in a proper manner! Hon. Leader of the Opposition!

*(Interruptions)*

**Mr Ganoo:** This is...

*(Interruptions)*

This is totally...

*(Interruptions)*

I put it to the hon. Vice-Prime Minister that what he said regarding the Municipality of Port Louis is wrong, it is totally false. But, I will ask him whether with regard to this question of modifying the drains, Mr Speaker, Sir,...

*(Interruptions)*



I have with me a document...

*(Interruptions)*

**Mr Speaker:** Wait! Listen! We are here to listen to the question in order to understand the problem!

*(Interruptions)*

If hon. Members are going to make noise, the Vice-Prime Minister may not understand the question. He will not be able to answer!

*(Interruptions)*

Silence!

*(Interruptions)*

Hon. Bhagwan!

*(Interruptions)*

If you do not allow the hon. Leader of the Opposition to put his question in peace, nobody will understand and the Vice-Prime Minister...

*(Interruptions)*

The hon. Vice-Prime Minister will not be able to answer!

*(Interruptions)*

I am not speaking ...

*(Interruptions)*

Hon. Bhagwan, listen to me! Therefore, there is a question which the hon. Leader of the Opposition wishes to put. Hon. Member, put your question. Allow him to put his question in peace and allow also the hon. Vice-Prime Minister to answer!

*(Interruptions)*

**Mr Ganoo:** Can the hon. Vice-Prime Minister inform the House if, in fact, after signing of the original contract regarding the Motorway M1 between Pailles and Caudan, this contract was modified with a view to reduce the site specifications of the side drains and I put it to the hon. Minister that, in view of this modification, the reduction in the flow of water to be captured had been reduced by hundred

percent in terms of volume metric calculations. I have with me a document which I can produce showing...

*(Interruptions)*

... showing, Mr Speaker, Sir,...

**Mr Speaker:** Do not interrupt!

**Mr Ganoo:** ...that in view of the reduction of the size of the drains, 700 *par* 700 has become half of what it should have been. The volumetric calculations have resulted in the flow being diminished by hundred percent in the drains and the contractor and the RDA are responsible for what happened!

*(Interruptions)*

**Mr Bachoo:** Mr Speaker, Sir, ...

*(Interruptions)*

Mr Speaker, Sir, number one....

*(Interruptions)*

**Mr Speaker:** Silence! Hon. Bhagwan, silence please!

*(Interruptions)*

**Mr Bachoo:** Mr Speaker, Sir, number one, it is a flash flood. Everybody knows and we cannot fight against nature....

*(Interruptions)*

Number two, ...

*(Interruptions)*

...there was no question of the drains to be reduced. Mr Speaker, Sir, the drains were not reduced. On the contrary, we have made some additional works and some previous drains were only 300 millimetres and all these have been removed and replaced by bigger drains, larger drains and...

*(Interruptions)*

... wherever drains were not available, they have already introduced...

*(Interruptions)*

**Mr Ganoo:** I have...

*(Interruptions)*

I have the bill of quantities!

*(Interruptions)*

I have the bill of quantities which I am going to table where an item...

*(Interruptions)*

...where an item of 'new drains' which indicate that the drains *en cours de chemin* have been reduced with the consent of...

*(Interruptions)*

... the RDA and the consultant...

*(Interruptions)*

I have the letter.....

*(Interruptions)*

I have the document of the Road Development Authority...

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Ganoo:** ...with all the details of bill of quantities. Will he table the contract, Mr Speaker, Sir?

*(Interruptions)*

Is the hon. Minister, Mr Speaker, Sir, since...

*(Interruptions)*

**Mr Speaker:** Wait a minute! I do not like interrupting either the hon. Vice-Prime Minister or the hon. Leader of the Opposition. I said last time that this is question time. At question time, one has to put questions. Of course, it is quite fair that one has to give some explanations before putting a question so that the question becomes intelligible. This is normal and it is according to Standing Orders. But, making lengthy statements during question time is not in order.

*(Interruptions)*

Let me finish! This applies to everybody. Making lengthy statements at question time is not proper. For the guidance of hon. Members, a statement may be put in the form of a question. So, if the statement is

put in the form of a question it will be allowed, otherwise, I am not going to allow lengthy statements to be made at question time!

*(Interruptions)*

**Mr Ganoo:** Is the hon. Vice-Prime Minister aware now, I come...

**Mr Bachoo:** Mr Speaker, Sir, I have to answer the question which the hon. Leader of the Opposition has already asked. I am not being given the chance to answer!

*(Interruptions)*

**Mr Ganoo:** Mr Speaker, I come....

*(Interruptions)*

**Mr Speaker:** Hon. Leader of the Opposition, it appears that the hon. Vice-Prime Minister has to answer further your question!

*(Interruptions)*

**Mr Bachoo:** Mr Speaker, Sir, I have to assure the House, a total length of three kilometres of new drains has been provided in addition to four cross drains at Montebello, Desbro, Bell Village and Cassis. There are places – the drains were only 300 millimetres, we have extended them and made them 700 millimetres.

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Ganoo:** Mr Speaker, Sir, I come to the Ruisseau du Pouce and I am really flabbergasted...

*(Interruptions)*

...by the...

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Ganoo:** ...by the remarks...

*(Interruptions)*

...the hon. Minister...

*(Interruptions)*

...is denying that the works of the contractors by placing a lot of debris and *gravats* resulted in obstructing the flow and the discharge which caused the floods. Has the Vice-Prime Minister taken the care to view the Caudan Services cameras 21 and 22 to see whether, in fact, on that fateful day the obstruction of Ruisseau du Pouce caused the floods in the Caudan area?

**Mr Bachoo:** Mr Speaker, Sir, the first thing I will tell you is that the Ruisseau du Pouce stream discharge area is 16sq meters...

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Bachoo:** ...and the amount that we are providing....

*(Interruptions)*

I have to answer. And the amount we have provided is 36sq meters. I have also mentioned that there have been piling works. The contractor will have to take his responsibility.

*(Interruptions)*

But, at the same time, having said that...

*(Interruptions)*

Mr Speaker, Sir...

*(Interruptions)*

Having said that...

*(Interruptions)*

**Mr Speaker:** Silence!

*(Interruptions)*

**Mr Bachoo:** Mr Speaker, Sir, we have viewed...

*(Interruptions)*

Mr Speaker, Sir, we have viewed the CCTV camera ourselves and it confirms that the bridge did not overflow. In fact, where the real problem lies, Mr Speaker, Sir, when the decision was taken in 1992 and 1996...

*(Interruptions)*

...when the hon. Member was there....

*(Interruptions)*

...in 1992 and 1996 to cover the drains...

*(Interruptions)*

**Mr Speaker:** Silence!

*(Interruptions)*

**Mr Bachoo:** Mr Speaker, Sir, the drains...

*(Interruptions)*

...the drains were covered and the amount of water, being given...

*(Interruptions)*

Let me complete! Being given that, at the mouth of the Signal Mountain, the drain was not maintained by the Municipality of Port Louis. It was broken...

*(Interruptions)*

...the entire water fell towards la Rue Labourdonnais, came to La Poudrière and oversplit over the whole place where two human lives were lost...

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Bachoo:** ...two human lives were lost. That was the water which came to Place d'Armes. That is the naked truth which nobody can deny!

*(Interruptions)*

**Mr Ganoo:** But to what we know, I put it to the hon. Vice-Prime Minister, nobody has died in 2000 to 2005.

*(Interruptions)*

But I put it...

*(Interruptions)*

...as a result of flooding in Port Louis!

*(Interruptions)*

But, I put it...

*(Interruptions)*

**Mr Speaker:** Well, well, well...

*(Interruptions)*

**Mr Ganoo:** I put it to the hon. Vice-Prime Minister...

*(Interruptions)*

I put it to the hon. Vice-Prime Minister regarding the flooding of the Ruisseau du Pouce...

*(Interruptions)*

I put it to the hon. Vice-Prime Minister...

*(Interruptions)*

Mr Speaker, Sir, what is this!

*(Interruptions)*

**Mr Speaker:** I want some order!

*(Interruptions)*

I want some order!

**Mr Ganoo:** I put it to the hon. Vice-Prime Minister regarding the Ruisseau du Pouce he said that he has...

**Mr Speaker:** Silence!

**Mr Ganoo:** ... he said he has viewed the CCTV.

*(Interruptions)*

But I put it to him that Chief Inspector Tuyau who viewed the CCTV reported to the Commissioner of Police that, I quote-

“The exit of Ruisseau du Pouce, where the construction of a third lane is in progress - prior to this tragic flooding incident - is obstructed by concrete debris coming to the said construction, thereby preventing water through, and the entrance of the waterfront is situated ...

*(Interruptions)*

**Mr Ganoo:** Let me finish, Mr Speaker, Sir.

**Mr Bachoo:** But I have to answer.

*(Interruptions)*

**Mr Speaker:** Silence! Please, allow the hon. Leader of the Opposition to put his question. I said ‘put question’ and not to make statements, please!

**Mr Ganoo:** This is what the report says –

“The flooding was diverted, which may have resulted in the drowning and death of the six persons.”

*(Interruptions)*

This is the report that Mr Tuyau sent to the Commissioner of Police, and I am going to table it, Mr Speaker, Sir.

*(Interruptions)*

The report says that the drowning was caused by the obstruction of Ruisseau du Pouce ...

*(Interruptions)*

**Mr Speaker:** Hon. Soodhun!

**Mr Bachoo:** I must be allowed to answer. Mr Speaker, Sir, the hon. Leader of the Opposition mentioned that no lives were lost. But he hardly understands; he is still living in a different world. For the first time in our country, there was a flash flood.

*(Interruptions)*

That explains.

Secondly, Mr Speaker, Sir, I have already mentioned that there were 250 tonnes of *ordures, débris*, which were collected after the flood last week. This means that the Municipality completely neglected the area.

*(Interruptions)*

Thirdly, Mr Speaker, Sir, how do we explain that two persons lost their lives in the vicinity of Kentucky?

Fourthly, Mr Speaker, Sir, Inspector Tuyau is not an engineer. He cannot pass comments. I would like to remind something to the House, Mr Speaker, Sir. When four lives in all were lost in *Radier*, what was done by the hon. Member when he was there?

*(Interruptions)*



**Mr Speaker:** I say order!

*(Interruptions)*

Let me make a statement. Hon. Members, I have intimated to all of you that only...

*(Interruptions)*

Hon. Members, I have intimated to you...

*(Interruptions)*

Silence! I say silence! Hon. Soodhun and hon. Ms Deerpalsing!

*(Interruptions)*

I have said that 30 minutes are earmarked for a PNQ.

*(Interruptions)*

We have reached the time. The time is over! But, if hon. Members are not going to behave, if they are going to make noise, I will apply the Standing Orders strictly. Therefore, I hope that hon. Members will cooperate. The time, in fact, is over, but there have been some noises on both sides, which have curtailed the 30 minutes.

*(Interruptions)*

Hon. Members, listen to what I am saying, please! No comment! I am going to allow the hon. Leader of the Opposition three more questions, just to catch up with the time that we have lost due to noises.

**Mr Ganoo:** Has the hon. Vice-Prime Minister taken cognisance of a report of the Wastewater Management Authority concerning the Ring Road, when the Swami Vivekananda Centre was flooded after the heavy rainfall since 2011? Is he aware that the conclusion of the Wastewater Management Authority is -

“It is our opinion that the main cause of underground water at the lower floor of the Centre is due to the development of the Ring Road Project”.

**Mr Bachoo:** Mr Speaker, Sir, that comes from the notes of meetings of the Wastewater Authority and not the report. In fact, the report is prepared by the Deputy Chief Engineer, Mr Reshad Jewon, where he mentions that the problem occurred because the drains, which were under the responsibility of the Swami Vivekananda, were not kept properly by the authorities concerned there, and not because of the Ring Road.

**Mr Ganoo:** Is the hon. Vice-Prime Minister willing to table the two cameras, that is, numbers 21 and 22, from the Caudan Security Services, so that all hon. Members of the House can be appraised of the contents of these two cameras?

**Mr Bachoo:** Mr Speaker, Sir, that does not fall under my responsibility, but under the Commissioner of Police. The hon. Leader of the Opposition has to write to the Commissioner of Police.

**Mr Speaker:** Hon. Jugnauth! I will allow you one question. The last question will be for the hon. Leader of the Opposition.

**Mr Jugnauth:** Thank you, Mr Speaker, Sir. Concerning the Ring Road, is the hon. Vice-Prime Minister aware that he has violated a number of terms and conditions with regard to the EIA licence, namely ...

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Jugnauth:** ... condition No. 5, where necessary authorisation from the Supreme Court and the Water Resources Unit should have been sought? And nothing was done! Is he aware that condition No. 6, with regard to the detailed design drawings of the culverts and bridges, should have been submitted to the Water Resources Unit for approval prior to start of works? This has not been done! Condition No. 12, with regard to the construction of ...

*(Interruptions)*

**Mr Speaker:** Hon. Member, you are fully aware of what I have said earlier to the hon. Leader of the Opposition. You have to put questions. Don't make a statement, and one question at a time.

*(Interruptions)*

**Mr Bachoo:** Mr Speaker, Sir, the hon. Member has asked me two questions.

*(Interruptions)*

**Mr Speaker:** What is the question?

**Mr Jugnauth:** The question is: is he aware that he has violated a number of conditions in the EIA licence ...

*(Interruptions)*

Let me just say the conditions.

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Jugnauth:** ...namely conditions Nos. 12, 13, and more so that 18 natural rivers from the mountain were blocked, and that the procedures that we should have gone to the Supreme Court to get consent with regard to the different conditions have not been followed?

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Bachoo:** Mr Speaker, Sir, let me remind the House that Kentucky was exempted from EIA.

*(Interruptions)*

**Mr Speaker:** Allow the hon. Vice-Prime Minister to answer!

*(Interruptions)*

Yes, answer!

*(Interruptions)*

Silence!

*(Interruptions)*

**Mr Bachoo:** Mr Speaker, Sir, this is a Government...

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Bachoo:** Mr Speaker, Sir, all rivulets and storm drains were maintained, and we had received EIA. We have not gone through the back door. We had the EIA and monitoring was done by the Ministry of Environment. On top of it, Mr Speaker, Sir, I have got the report of the consultant who was fully satisfied with the actions we have taken. The consultant also mentioned that should so many drains not have been constructed, the region Guibies-Pailles and Leal area would have been severely affected. On the contrary, we have supported them.

*(Interruptions)*

**Mr Speaker:** Silence! This is the last question of the hon. Leader of the Opposition.

**Mr Ganoo:** Mr Speaker, Sir, in view of the clear and unambiguous finding of the report that Mr Tuyau sent to the Commissioner of Police, namely that the floods were due to the obstruction of Ruisseau du Pouce and caused the drowning of six persons, may I, therefore, ask the hon. Vice-Prime Minister,

very solemnly - in view of all the information that has been provided in the press and now this Police report - to retire pending the Commission of inquiry?

*(Interruptions)*

**Mr Bachoo:** Mr Speaker, Sir...

*(Interruptions)*

**Mr Speaker:** I want some order, please! Answer hon. Vice-Prime Minister!

Silence!

**Mr Bachoo:** Mr Speaker, Sir, when the hon. Member was Attorney General...

*(Interruptions)*

**Mr Speaker:** Hon. Ameer Meea! Hon. Bhagwan, you keep that in your pocket. I am not going to allow it. Yes, hon. Minister, give your answer.

**Mr Bachoo:** Mr Speaker, Sir, I should have put this question to the other side of the House. At a time when there was a flash flood the Mayor of Port Louis is abroad, not taking his responsibility ...

*(Interruptions)*

**Mr Speaker:** Silence! Time is over! I said, time is over now!

*(Interruptions)*

Questions addressed to Dr. the hon. Prime Minister! I would like to make an announcement.

*(Interruptions)*

Silence, please! The Table has been advised that Parliamentary Question No. B/66 has been withdrawn. Now, we proceed to questions addressed to Dr. the hon. Prime Minister.

*(Interruptions)*

Silence! Hon. Ameer Meea!

*(Interruptions)*

I have to remind hon. Members again that we have thirty minutes for the questions addressed to the hon. Prime Minister.

**MAURITIAN TERRITORY – SURVEILLANCE RADAR SYSTEM**

**(No. B/52) Mr A. Ameer Meea (First Member for Port Louis Maritime & Port Louis East)** asked the Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues whether, in regard to the Mauritian territory, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to -

- (a) if the Surveillance Radar System covering same is fully operational and, if not, why not, and
- (b) the number of ships seized on ground of illegal operation within same, over the past seven years.

**The Prime Minister:** Mr Speaker, Sir, the Coastal Surveillance Radar System was commissioned on 15 April 2011, following a grant from the Government of the Republic of India. It consists of eight Radars and Automatic Identification System stations operating in mainland Mauritius and the Outer Islands at Agalega, St Brandon and Rodrigues. The system enables 24-hour monitoring of the seas around us, which include territorial waters, contiguous zone and parts of the Exclusive Economic Zone.

Mr Speaker, Sir, in regard to part (a) of the question, I am informed by the Commissioner of Police that out of the eight stations, six are fully operational.

One station in mainland of Mauritius and one in Agalega are not functioning properly due to technical problems. Action has already been initiated to have both systems repaired.

In regard to part (b) of the question, I am informed by the Commissioner of Police that over the last seven years, eight fishing vessels have been seized by the National Coast Guard for illegal operations in our waters four of which have been seized after the installation of the Radar System.

In three cases, the Masters of the Vessel were convicted by the Courts and fined, two cases have been referred to the Director of Public Prosecutions for advice, two cases are still under enquiry and the Director of Public Prosecutions has advised no further action in one case.

Mr Speaker, Sir, a series of other measures are taken constantly and closely to monitor activities in our Exclusive Economic Zone to counter the various threats of piracy and illegal fishing, as well as armed robbery against ships and other illegal operations. These include -

- (i) constant vigilance by the National Coast Guard, the Ships and Aircrafts through four to five surveillance sorties every week;
- (ii) since 2009, joint anti-piracy operations and the EEZ surveillance are being undertaken on a regular basis in our waters by Indian Naval Ships and French Patrol Vessels, and

- (iii) capacity-building of personnel of the National Coast Guard with the assistance of friendly countries such as India, the United States and France. In August 2009, a National Coast Guard Commando Team was set up with the assistance of the Indian Navy to undertake maritime security operations.

With a view to enhancing our naval capability and further reinforcing surveillance of our Exclusive Economic Zone, the Police is also considering the acquisition of additional state-of-the-art assets. An Offshore Patrol Vessel has already been acquired under a line of credit and the grant extended to Mauritius following my visit to India in October 2005. That vessel is expected to be delivered by September of next year. Besides, negotiations are currently being held with the Indian Authorities for the acquisition of two Water Jet Fast Attack Crafts, ten Fast Interceptor Boats, one new Dornier Aircraft. We are also looking at the possibility of acquiring a new sea plane, if it is found suitable for our sea conditions.

**Mr Ameer Meea:** Mr Speaker, Sir, can I ask the hon. Prime Minister whether this Surveillance Radar System is adequate to cover the vast Mauritian territory in view of preventing foreign vessels to pilfer our resource marine?

**The Prime Minister:** I would have thought the hon. Member knows the extent of our Exclusive Economic Zone. It is a huge ...

*(Interruptions)*

Well, we are not the United States of America, we are Mauritius. How do you think we will put a ship, in every ten feet? So, you should know the answer then.

*(Interruptions)*

**Mr Ameer Meea:** Mr Speaker, Sir ...

*(Interruptions)*

**Mr Speaker:** Put your question!

**Mr Ameer Meea:** Mr Speaker, Sir, I asked the hon. Prime Minister - I don't know why he is getting so emotional today - whether the Radar System is adequate to cover the vast Mauritian territory. I did not ask to put a ship in any nook or cranny of our territory. I asked whether it is adequate.

**The Prime Minister:** Well, the answer is, Mr Speaker, Sir, in fact, he should have known. I mentioned at the very beginning, there was no such system until I decided, with the help of the Indian Government to set up this Radar System; there was none before. But we have a huge - that is what I am trying to say - Exclusive Economic Zone. So, obviously we cannot have enough but we are starting.

**Mr Ameer Meea:** May I ask the hon. Prime Minister if he is aware that there is a boat which is fishing near Agalega and which is employing illegal workers from Cambodia? This has been in the press recently. Whether he is aware and what action has he taken?

**The Prime Minister:** There are so many places. If you ask the hon. Minister for Fisheries, he will tell you.

*(Interruptions)*

**Mr Speaker:** Silence!

**The Prime Minister:** The Minister for Fisheries will tell you there are so many cases where action is taken. When we find we do take action.

**Mr Speaker:** Next question, hon. Uteem!

#### **WORLD PRESS FREEDOM INDEX – PUBLICATION - MEASURES**

**(No. B/53) Mr R. Uteem (Second Member for Port Louis South & Port Louis Central)** asked the Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues whether he has taken cognizance of the World Press Freedom Index published recently by Reporters Without Borders and, if so, state the measures he proposes to take to enhance media freedom in Mauritius.

**The Prime Minister:** Mr Speaker, Sir, I have taken cognizance of the World Press Freedom Index 2013 published by Reporters Without Borders and would like to invite the attention of the hon. Member to the replies I made to PQ B/228 on 19 April 2011 and to PQ B/317 on 17 May 2011 which relate to previous reports on Mauritius in relation to the freedom of the press. It is pertinent to note that several prominent democracies have slipped down in the World Press Freedom Index this year as compared to the Index for the previous year.

For example, Canada which, like Mauritius, has a vibrant press, was ranked 10<sup>th</sup> internationally last year and this year came down to 20<sup>th</sup> – a drop of 10 places. Japan, another large democracy, was 22<sup>nd</sup> in the 2012 Index and has been ranked 53<sup>rd</sup> in the 2013 Index, just a few ranks above Mauritius – a drop of 31 places. Major European Union countries like Greece have slid from 70<sup>th</sup> in 2012 to 84<sup>th</sup> in this year's Index. Closer to us, Seychelles was ranked 73<sup>rd</sup> in 2012 and this year it ranks 93<sup>rd</sup> – a drop of 20 places.

*(Interruptions)*

**Mr Speaker:** Silence! Hon. Aimée!

**The Prime Minister:** Mr Speaker, Sir, this surely does not mean that press freedoms have gone down in all these well-known and renowned democracies.

Let me, Mr Speaker, Sir, reiterate that section 12 of our Constitution provides for the protection of the freedom of expression. Chapter II of our Constitution provides for the exercise of the fundamental rights and freedoms found under this Chapter, to be subject, of course, to respect for the rights and freedoms of others and laws made in the interests of defence, public safety, public order, public morality or public health and so on. Freedom of the press is an essential component - we all agree - of the right to freedom of expression as enjoyed under section 12 of our Constitution.

The local media has always enjoyed a tradition of freedom and pluralism and I would like to reaffirm the commitment of this Government to continue to promote the fundamental rights and freedoms of all citizens, including their freedom of expression. We should encourage responsible journalism - not propagation of false news, but responsible journalism. Rights go together with obligations and responsibilities.

Mr Speaker, Sir, one should guard against reading the World Press Freedom Index 2013 published by Reporters without Borders in isolation and concluding that freedom of the press in Mauritius is at stake and, therefore, there is a tort.

We should also bear in mind other reports, such as the report published by Freedom House on Freedom in the World of 2013, same year, which ranks Mauritius as a free country and I quote, Mr Speaker, Sir, it says -

“Where there is open political competition, a climate of respect for civil liberties, significant independent civic life, and independent media”.

Indeed, in its Global Press Freedom Ratings for 2012, Mauritius is among the five (5) countries which are considered to be free out of 49 in the Sub-Saharan Africa.

Mr Speaker, Sir, freedom of expression is an essential underpinning of democracy. The Democracy Index 2012 Report from the Economic Intelligence Unit assessed 44 countries in the Sub-Saharan Africa and reported as follows, I quote, out of the 44 countries, it says -

“Only one State in the region (out of the 44 assessed) remains a full democracy: the Indian Ocean Island of Mauritius, which has maintained a strong democratic tradition since the country gained independence in 1968”.

In fact, Mr Speaker, Sir, the Democracy Index 2012 Report which is prepared by the Economic Intelligence Unit ranks Mauritius 18<sup>th</sup> out of 167 States. It is relevant to point out that only 25 countries



out of 167 have been classified as full democracies and Mauritius is one of them. Indeed, Mauritius is the only country from the African Continent to be ranked among the 25 countries having full democracy. The Economic Intelligence Unit has also reported that Mauritius has maintained a democracy index of 8.04 out of 10 for each of the years 2006, 2008, 2010 and 2011. This democracy index has, in fact, risen for the year 2012 to 8.17, that is, out of 10.

As at today, Mr Speaker, Sir, we have a total of 53 dailies/weeklies/ fortnightlies/monthlies in addition to the several international broadcast news stations. There is unrestricted access to Internet. People now have increasing access to the media to express their views and have unrestricted exposure to different viewpoints. As I have stated on several occasions, I am the first to agree that the media has the right to criticise, but we should all accept the fact that those who are criticised are also entitled to an appropriate rebuttal. I also believe that the media has to act in a responsible, objective and balanced manner. At any rate, we have an independent Judiciary and aggrieved parties can always and do often seek redress before the Courts.

**Mr Uteem:** Mr Speaker, Sir, five years ago in the same ranking Mauritius was 25<sup>th</sup> and now, it is 62<sup>nd</sup> of *reporters sans frontières*. Will the hon. Prime Minister, therefore, agree that under his Government there has been a serious deterioration in the freedom of liberty of the press?

*(Interruptions)*

**Mr Speaker:** Silence!

**The Prime Minister:** Obviously, the hon. Member did not listen to anything I said. In fact, what the hon. Member has quoted is wrong. The figure he is quoting is actually wrong. I don't know where the hon. Member got the figures, but they are actually wrong. But, as I said ...

*(Interruptions)*

But he has got the wrong figure. I don't know how. He might have got it, but he is reading it wrongly because it was not what he is saying. There was a drop of eight places only, but...

*(Interruptions)*

Well, he has got it wrong. I am telling him. He wants me to answer the question or he knows the answer? He answers the question himself then, if he knows the answer. I am telling him this is wrong.

*(Interruptions)*

**Mr Uteem:** Will the hon. Prime Minister agree that, in fact, it is the role of the MBC/TV and lack of independence of the Independent Broadcasting Authority who is primarily responsible for this downgrade in the ranking of Mauritius?

*(Interruptions)*

**The Prime Minister:** Why does he pick on the MBC; he must pick on all the media. We have to look what is happening on the radios. We see everyday what is happening; on the Internet what is happening. So, he should be fair himself, and not just pick on the MBC.

**Mr Obeegadoo:** Mr Speaker, Sir, I won't pick on the MBC. I want to hear the hon. Prime Minister's answer. Is the hon. Prime Minister aware of the damage wrought to our reputation in terms of this index by the decision of this Government to have all the institutions controlled by the State boycott, since a very long time, the main daily of this country, and can he quote one single self-respecting democracy that adopts such shameful practices as the present Government in that regard?

*(Interruptions)*

**The Prime Minister:** I would remind the hon. Member to go and look back when the Leader of the MMM was Prime Minister what he actually said about the media then. He said they should be all locked up. Go and see what he said!

*(Interruptions)*

I suppose the hon. Member was not in Mauritius at that time. So, he does not know.

*(Interruptions)*

**Mr Speaker:** Silence!

**The Prime Minister:** In any case, Mr Speaker, Sir, this question about whether we should subsidise the media is a question that we are going to look at with the new media report that is coming out, as you know. We have to look also, whether those who are powerful and get a lot of publicity should be given more money. That also we have to look.

*(Interruptions)*

We should have looked at all the dailies, not just one or two that the hon. Member is picking on.

**Mr Ganoo:** The hon. Prime Minister has elaborated a lot in his answer on the example of which Mauritius is in terms of democracy. Can I put it to him that there is always room to improve et *élargir l'espace démocratique*, and the aim of every Mauritian is to curtail *les pulsions anti-démocratiques des autorités*. Therefore, I put it to him that to measure democracy, there are several indicators; one of them is the allocation of Government publicity to the press. Can I ask him to revisit the way in which this is being done today, because small, I mean, insignificant papers which are very subservient to Government are provided with a lot of Government publicity?

*(Interruptions)*

**Mr Speaker:** Silence!

**The Prime Minister:** I thank the hon. Leader of the Opposition. It was a good question and he is right, there is always room for improvement anywhere in the world, not just in Mauritius, but anywhere in the world, but we also have to look at fairness. That is what we are looking at on the new media report that will be coming out soon; whether, we should actually encourage more newspapers or should we just restrict ourselves to two or three newspapers. That, we also have to look at.

**Mr Lesjongard:** Mr Speaker, Sir, the hon. Prime Minister, in replying to the question referred to a question that I put to him sometime back, that is, B/317 on 17 May and, in his reply, he stated that the problem related to the local media is misreporting by the local media. Does the hon. Prime Minister consider the recent statement made by his Vice-Prime Minister, Minister of Finance and Economic Development at Plaine Magnien where he stated that -

*'Navin Ramgoolam ine montré figir après alé!'*

misreporting by the local media?

*(Interruptions)*

**Mr Speaker:** Silence!

**The Prime Minister:** Mr Speaker, Sir, this is precisely...

*(Interruptions)*

I am glad the hon. Member raised that because this is precisely...

*(Interruptions)*

**Mr Speaker:** Well, the hon. Member has put a question, he must allow the...

**The Prime Minister:** The hon. Member does not want to listen. This is precisely what I was saying. What was reported - and he has put communiqués after communiqués - was actually false.

*(Interruptions)*

But, one paper ...

*(Interruptions)*

**Mr Speaker:** Silence!

**The Prime Minister:** ... misquoted on purpose and then, you made propaganda out of this! So, go and read these communiqués!

*(Interruptions)*

**Mr Speaker:** Silence!

### PERSONAL EXPLANATION

#### PLAINE MAGNIEN – VICE-PRIME MINISTER, MINISTER OF FINANCE AND ECONOMIC DEVELOPMENT (MR X. L. DUVAL) - STATEMENT

**The Vice-Prime Minister, Minister of Finance and Economic Development (Mr X. L. Duval):** Mr Speaker, Sir, on a point of personal explanation, I wish to say that unless the hon. Member was there, he cannot say what I said and what I did not say, and I never said such a thing and I would never say such a thing.

*(Interruptions)*

**Mr Speaker:** Hon. Bhagwan!

**Mr Bhagwan:** The hon. Prime Minister...

*(Interruptions)*

**Mr Speaker:** Allow the...

*(Interruptions)*

Please!

**Mr Bhagwan:** ...about Government publicity, the hon. Prime Minister has spoken about fairness. I have asked many questions in the past. Can the hon. Prime Minister give an undertaking to the House that Government would not give undue favour to ‘Advance’?

**The Prime Minister:** In fact, no favour has been given to ‘Advance’, if you want to know.

*(Interruptions)*

**Mr Fakeemeeah:** Mr Speaker, Sir, can the hon. Prime Minister inform the House on the number of arrests of journalists under his reign since 2005?

**The Prime Minister:** I know that the hon. Member is relatively young. He should have asked me how many journalists were arrested. I think 45 were arrested by the former, former Prime Minister.

*(Interruptions)*

**Mr Speaker:** Hon. Bhagwan, next question!

D03 of 09.04.2013

## NATIONAL ASSEMBLY - PROCEEDINGS – LIVE BROADCAST

(No. B/54) **Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière)** asked the Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues whether, in regard to the live broadcasting of the proceedings of the House, he will state when he proposes to introduce the motion for the setting up of a select committee to look thereinto and submit its report.

**The Prime Minister:** Mr Speaker, Sir, the House will recall that, following a motion which I had tabled on 05 April 2011, a Select Committee on Live Broadcasting had been constituted on 12 April 2011.

In reply to PQ B/251 in June of last year, I explained that no report had been submitted by the Select Committee prior to the prorogation of Parliament in March 2012.

Therefore, Mr Speaker, Sir, there are conflicting views whether we should bring another motion or not. So, I intend to take up the matter with you, Mr Speaker, Sir.

**Mr Bhagwan:** This question has been raised rightly, as the hon. Prime Minister has stated, in June 2012 and March 2011. Being given that we are nearly three years with this new Government - the hon. Prime Minister has lost three years of his mandate, and there are only two years or less remaining for him as Prime Minister - can I ask him whether he will confirm to the House, the country and the nation that during these coming two years, at least, he will come up with this Select Committee and we will have a new Parliament with a new legislation?

**The Prime Minister:** Mr Speaker, Sir, let me remind the hon. Member that, in fact, the idea of having it comes from the Labour Party. I don't know whether the hon. Member knows. It comes from us. We are the one who put it in our programme. We are the one who want to do it because we like people to see what a futile Opposition we have in this country.

*(Interruptions)*

**Mr Speaker:** Silence! I say silence!

*(Interruptions)*

**Mr Bhagwan:** Whatever be the opinion of the hon. Prime Minister, we are guided by the opinion of the public there, not the Prime Minister.

*(Interruptions)*

Mr Speaker, Sir, can the hon. Prime Minister inform the House, the country and the nation until when *la population va être bernée par la MBC*. Every Tuesday, we are being harassed by the MBC/TV and the Director-General is sitting here and doing propaganda for the Government.

*(Interruptions)*

Every Tuesday, it is a nightmare, Mr Speaker, Sir, at the MBC.

*(Interruptions)*

**The Prime Minister:** Mr Speaker, Sir, let me remind the hon. Member - he asked questions, he must expect the answers - if he says the MBC harasses him, what does the MBC show? Pictures of what they do here!

*(Interruptions)*

What they do here is what the MBC shows. The MBC does not make pictures.

*(Interruptions)*

It is what is happening here that the MBC shows! So, where is the problem?

*(Interruptions)*

**Mr Speaker:** Last question!

**Mr Bodha:** Mr Speaker, Sir, in view of the fact that the ...

*(Interruptions)*

**Mr Speaker:** Hon. Bhagwan!

**Mr Bodha:** ...outgoing Select Committee...

*(Interruptions)*

**Mr Speaker:** Silence! I want to hear the question that the hon. Member has to ask.

*(Interruptions)*

Hon. Bhagwan! Please, allow the hon. Member to ask his question!

*(Interruptions)*

Hon. Bodha, proceed!

*(Interruptions)*

I say silence! Order!

*(Interruptions)*

Enough is enough! Please, stop! Hon. Member, proceed with your question!

**Mr Bodha:** Mr Speaker, Sir, in view of the fact that the outgoing Select Committee has done a very good job with all the Members participating and a draft report could be finalised at the Clerk's Office, I am asking the hon. Prime Minister whether that Select Committee could not be reconvened just to finish the whole process in a few sittings?

**The Prime Minister:** And the hon. Member as Chairperson?

**Mr Bodha:** Not necessarily.

**The Prime Minister:** Because in that Select Committee, he was the Chairperson! There are views, in fact, that is why I want to take up the matter with Mr Speaker - there might not be a need for a new, because the Minutes of Proceedings are there. Maybe we could do it that way. But if there is need, we will do.

**Mr Fakeemeeah:** Mr Speaker, Sir, can I appeal to the hon. Prime Minister to review the way the MBC/TV is broadcasting the works of Parliamentarians as non-elected parties get more airtime than me and I have complained several times to him? Is this normal?

*(Interruptions)*

**The Prime Minister:** As far as I know, Mr Speaker, Sir, the MBC is not broadcasting everything. Hopefully, when there is a full coverage, then the hon. Member will get the coverage that need be. I hope the hon. Member will put more questions and participate more. I am sure the MBC will have to.

#### **AGALEGA – MINISTER OF LOCAL GOVERNMENT – STATEMENT**

**(No. B/55) Mr V. Baloomoody (Third Member for GRNW & Port Louis West)** asked the Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues whether he has taken cognizance of the state of affairs prevailing following a statement made by the hon. Minister of Local Government, with regard to the Roman Catholic authorities, if any, during his recent visit to Agalega and, if so, will he state the actions he proposes to take in relation thereto.

**The Prime Minister:** Mr Speaker, Sir, the House will recall that in his reply to PQ B/20 on 26 March 2013, the hon. Minister of Local Government and Outer Islands did explain very clearly in this House the content of the statement which he had made during his last visit to Agalega. He emphasised the fact that his comments had been misinterpreted, distorted and blown out of proportion.

Mr Speaker, Sir, having said this, our priority remains that of continuing our efforts to improve the quality of life and wellbeing of the inhabitants of Agalega. The welfare of the Agaleans should remain our prime concern. The Government has a plan for our Outer Islands, as enunciated in the Government Programme 2012-2015, and this plan is already being implemented.

Mr Speaker, Sir, the House will appreciate that no other Government in the past has done as much as this Government has been doing for our fellow Agaleans. I am laying on the Table of the Assembly a list of projects which have been implemented in Agalega by this Government. These projects include, *inter alia* -

- the construction of over 50 housing units for employees of the Corporation;
- the construction of a refugee centre on the North Island for use by the inhabitants in case of natural disasters as, for example, tsunamis and cyclones;

There was none and I thank the hon. member, when he was looking after Agalega, he was not a Minister. He was the one who suggested that we have to take into consideration that there might be a tsunami one day and, therefore ...

*(Interruptions)*

No, but I am telling them!

- the provision of electricity on a 24-hour basis through handset generators - prior to 2006, Mr Speaker, Sir, electricity was supplied only for a fixed period of time everyday, people should know all this;
- granting approval for the establishment of a mobile network to provide worldwide communications;

*(Interruptions)*

The question relates to his comments. He was saying what has been done for Agaleans. It is untrue to say that nothing has been done. I just told him that there was no electricity on a permanent basis.

- the extension of the TV and Radio services;
- the establishment of a lower secondary school, run by MEDCO, and
- the construction of a National Coast Guard building.

All this has been done, Mr Speaker, Sir. Anyway, they will see.



There is something else I need to point out because that also is a falsehood. The Ministry of Health and Quality of Life since some time has been working - and is nearly ready from what I understand - on a project for a community hospital for emergencies and for the delivery of babies in Agalega. It is not done today. There is a whole process, as the hon. Vice-Prime Minister said, that we have to go through.

Mr Speaker, Sir, let me reaffirm, therefore, our continued support to the development of Agalega and the wellbeing of its inhabitants. The last visit of the hon. Minister to the island, in fact, bears testimony to this commitment and we shall pursue this endeavour with the collaboration of all stakeholders.

**Mr Baloomoody:** Can I ask the hon. Prime Minister whether he finds it proper for a Minister of this Republic to treat the people of the Catholic Church as the “*couyons*” and this was said in presence of Sister Olivia?

**The Prime Minister:** Mr Speaker, Sir, the question was asked to the hon. Minister, he gave a full explanation. Is the hon. Member saying that there are some people that we can't say anything about? We have a liberty of expression. He said what he felt, but he was misinterpreted. I say it again. He said it in Parliament.

*(Interruptions)*

You can criticise...

*(Interruptions)*

Again, Mr Speaker, Sir...

*(Interruptions)*

**Mr Speaker:** No interruptions please!

**The Prime Minister:** Look at the racial and communal attack that he is making. Look at the racial and communal attack...

*(Interruptions)*

...these are the people who want to govern this modern country. It is a racist remark that he has made. The hon. Minister explained last time. He was asked the question and he explained.

*(Interruptions)*

Yes, you can go and make all the propaganda that you want because you are a communal and a racist...

*(Interruptions)*

...that is what you are good at and you can be what you are and I won't give a shit about it, I am telling you what I have to tell.

*(Interruptions)*

**Mr Speaker:** Hon. Ameer Meea!

**Mr Ameer Meea:** Thank you, Mr Speaker, Sir,

**Mr Speaker:** Silence!

**Mr Ameer Meea:** In relation to what the hon. Prime Minister said, he mentioned Question B/20, which was answered by hon. Minister Aimée and I will quote from Hansard what hon. Mr Aimée said.

**Mr Speaker:** No, please put the question. Silence!

*(Interruptions)*

**Mr Ameer Meea:** I have to quote...

*(Interruptions)*

**Mr Speaker:** Supplementary question!

**Mr Ameer Meea:** The hon. Minister stated that he doesn't say what had been reported in the press...

*(Interruptions)*

...today, I am tabling a copy of a CD of what he said.

**Mr Speaker:** Hon. Ameer Meea, you came to see me about this issue...

*(Interruptions)*

Hon. Ameer Meea, I am speaking to you. Are you prepared to listen to me or not? I said you came to see me and I explained to you your rights and what you should do. So, this is not a proper time to take up this issue. You have the right to put a supplementary question. Put your supplementary question.

**Mr Ameer Meea:** Mr Speaker, Sir, please allow me to tell you that the hon. Minister has said that...

*(Interruptions)*

...it is in Hansard. He challenged me.

*(Interruptions)*

**Mr Speaker:** I say no! Next question, hon. Fakeemeeah!

**Mr Fakeemeeah:** Mr Speaker, Sir, can I ask the hon. Prime Minister why I was not made aware of the recent trip of MPs of my Constituency to Agalega? Why is this discrimination always against me?

*(Interruptions)*

**The Prime Minister:** Mr Speaker, Sir...

**Mr Speaker:** Silence!

**The Prime Minister:** Mr Speaker, Sir, just to answer to the previous question as well. He is putting a record, but I maintain what hon. Aimée said, because I have also listened to it and, in fact, he is right to say that he has been misinterpreted, distorted and whatever was brought, was out of proportion. What he was saying Mr Speaker, Sir, is fair for him to have said. Look at the developments we made, you cannot come and say that there is genocide in Agalega. This is absolutely untrue.

As far as hon. Cehl Fakeemeeah is concerned, my understanding is that he was contacted, but they could not be in touch with him. But I will make it a point.

**Mr Speaker:** Silence!

**The Prime Minister:** It is your rightful duty. It is legitimate what you are saying. You should also have gone and I will make sure that you are allowed to go next time.

**Mr Speaker:** Yes, hon. Leader of the Opposition!

**Mr Ganoo:** Mr Speaker, Sir, independently of the comments made or not by the hon. Minister, may I ask the hon. Prime Minister whether it is not in the interest of this Government and of the country at large for him to impress upon all the Members of his party of the *Alliance gouvernementale*...

*(Interruptions)*

**Mr Speaker:** Hon Minister of Health...

*(Interruptions)*

...hon. Minister of Health...

*(Interruptions)*

... Silence!

**Mr Ganoo:** And this applies to every Member of this House. Not to make any comment on any church or religion because this is the consequence now. Monseigneur Piat is saying that...

**Mr Speaker:** Silence!

**Mr Ganoo:** ...he trusts Father Labour, the hon. Prime Minister is saying that he trusts his Minister also. There is, therefore, now some sort of tension and in view to dissipate that malaise, may I ask the hon. Minister to *prezant so excuses*, to tender his apologies to the Church?

*(Interruptions)*

**The Prime Minister:** Mr Speaker, Sir,...

**Mr Speaker:** Silence!

**The Prime Minister:** Mr Speaker, Sir, that is why I was getting upset with hon. Baloomoody, to be fair, because...

**Mr Speaker:** Hon. Aimée and others, please, allow the hon. Prime Minister to answer. You may answer hon. Prime Minister.

**The Prime Minister:** Can I guess that he has not listened to what he has said. That is why I was enumerating all the developments. This is what he was referring to, that all this has been done and you come and say that this is genocide. It is unfair.

**Mr Speaker:** Hon. Aimée!

**The Prime Minister:** If we have to start apologising then we have to start apologising on the *démon de l'église*. We have to start that.

**Mr Speaker:** Time is over! Now, I have to announce that the Table has been advised that PQ B/59 has been withdrawn.

### **SEPT CASCADES – SMF OFFICERS - DEATH**

**(No. B/59) Dr. S. Boolell (Second Member for Curepipe & Midlands)** asked the Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues whether, in regard to the case of late L. S. N. and N. K. B., officers of the Special Mobile Force, who died during training at Sept Cascades, on 29 September 2012, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to if financial compensation has been paid to the dependants thereof and if so, indicate the quantum thereof and, if not, why not.

*(Withdrawn)*

### **MAURITIAN KREOL – PUBLIC ADMINISTRATION – FORMAL USE**

**(No. B/66) Mr S. Obeegadoo (Third Member for Curepipe & Midlands)** asked the Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues whether, in regard to the Mauritian Kreol, he will state if, further to the findings of the 2011 Population Census, Government will authorise and facilitate the formal use thereof in public administration, including in Parliament, local authorities, courts of law and for the application procedures having regard to social benefits and housing.

*(Withdrawn)*

*At 12.56 p.m. the sitting was suspended.*

*On resuming at 2.32 p.m. with Mr Speaker in the Chair*

**Mr Speaker:** The Table has been advised that Parliamentary Questions B/66, B/85, B/86, B/101 and B/106 have been withdrawn. Therefore we proceed with questions to Ministers.

### **LE MORNE & BEL OMBRE LAGOONS - SPEED LIMIT BUOYS**

**(No. B/67) Mrs J. Radegonde-Haines (Fourth Member for Savanne & Black River)** asked the Minister of Tourism and Leisure whether, in regard to the broken speed limit buoys in the lagoons of Le Morne and Bel Ombre, he will, for the benefit of the House, obtain from the Tourism Authority, information as to if they have now been replaced and, if not, why not.

**Mr Yeung Sik Yuen:** Mr Speaker, Sir, I wish to inform the House that my Ministry has, on 26 March 2013, floated tender for maintenance and repairs of existing marker buoys at various locations, including Le Morne and Bel Ombre. During that exercise, all missing or broken buoys at Le Morne and Bel Ombre would be replaced. The deadline for submission of bids is 30 April 2013.

Furthermore, my Ministry is currently carrying out a study at national level to identify priority areas where swimming zones, speed limit zones, ski lanes and mooring areas are required before proceeding with placement of appropriate buoys. Tender for consultancy services has been launched on 02 April 2013 with deadline for submission of bids on 02 May 2013.

**Mrs Radegonde-Haines:** Mr Speaker, Sir, from my understanding, it is now that works will start. My concern is that, over two years, precisely on 03 March 2011 up-to-date, the speed limit buoys were reported missing in the region.

In a reply to a PQ I asked the hon. Prime Minister, I quote: the Tourism Authority and the Ministry of Tourism and Leisure were requested to replace the speed limit buoys at the earliest for the proper monitoring of pleasure crafts plying in the region and to ensure their safety and security. Can the hon. Minister tell us why his Ministry failed to take some urgent actions to address this problem? Is it a common practice to wait for fatal accidents to occur then actions will be taken?

**Mr Yeung Sik Yuen:** Not really, Mr Speaker, Sir. In fact, the buoys were damaged. First of all, in November 2011, they were replaced some time after that and then we have got some complaints in 2012 to do the needful.

Of course, we have some priorities in terms of the most popular beaches around Mauritius. So, it is now that we are doing the needful and it is a question of weeks now that we will have the buoys at Bel Ombre and Le Morne.

**Mrs Radegonde-Haines:** Mr Speaker, Sir, allow me to insist, legislation applying to speed limit zone at Bel Ombre...

**Mr Speaker:** No, no, I am sorry to interrupt the hon. Member. She should put her question.

**Mrs Radegonde-Haines:** Mr Speaker, Sir, may I ask the hon. Minister if he is aware that legislation applying to speed limit zone at Bel Ombre and Le Morne is the Tourism Authority Act 2006 as amended. Would the hon. Minister agree with me that for the security and safety of the watercraft and any other person that there should be regular maintenance and the budget for maintenance should include sufficient funds for stocking supplies of buoys line or chain for future use?

**Mr Yeung Sik Yuen:** Mr Speaker, Sir, first of all, speed limit buoys exist since 2007. As you know, in fact, Mr Speaker, Sir, needful is being done and I have to say that most of the popular beaches will have speed limit buoys and swimming zones.

#### **SAVANNE & BLACK RIVER - PRE-VOCATIONAL SCHOOLS**

**(No. B/68) Mrs J. Radegonde-Haines (Fourth Member for Savanne & Black River)** asked the Minister of Education and Human Resources whether, in regard to the new strategy for pre-vocational schools, he will state the –

- (a) number of public and private secondary schools in Zones 3 and 4, located in Constituency No.14, Savanne and Black River, which have the capacity to accommodate same;
- (b) number of teachers recruited therefor, indicating
  - (i) the eligibility criteria therefor, and
  - (ii) if they possess the required training therefor
- (c) curriculum and time table set therefor, and
- (d) monitoring and evaluation procedure put in place therefor.

**Dr. Bunwaree:** Mr Speaker, Sir, my Ministry has, as from January 2012, embarked on a new strategy for prevocational education (PVE) in collaboration with the MITD and with the support of the MIE.

With regard to part (a) of the question, I am informed that in Constituency No. 14, there are 5 State Secondary Schools (M. Sangeelee SSS, La Gaulette SSS, Bambous SSS, S. Sivananda SSS and Palma SSS) and 2 Private Secondary Schools Keats College (Boys & Girls) and College du St. Esprit Rivière Noire (Boys & Girls) running prevocational classes.

I wish to inform the hon. Member, Mr Speaker, Sir, that there could be students from Constituency No. 14 attending other schools in zones 3 and 4 which may be outside Constituency No. 14.

Mr Speaker, Sir, as regards part (b) of the question, it must be noted that recruitment of teachers is not effected on a constituency basis. However, there are, at present, 57 teachers posted in the 5 State Secondary Schools and 2 Private Secondary Schools running prevocational classes in that Constituency. As at now, existing available resources are being used and 11 redundant pre-vocational teachers have been redeployed in the pre-voc stream of State Secondary Schools in Constituency No. 14. Moreover, for better coordination and monitoring, each school has appointed a Head of Department for the pre-voc stream.

Mr Speaker, Sir, pre-voc teachers are recruited in accordance with the criteria laid down in the prescribed Scheme of Service for the post. I wish to inform the House that the MIE has conducted training workshops to empower pre-voc educators to deliver the new curriculum.

As far as the curriculum is concerned, the MIE, in consultation with the MITD, has worked out a new programme aligned on the new National Curriculum Framework - Secondary, based on 4 key domains of learning for the prevocational stream, namely -

- (1) Communication Skills
- (2) Numeracy and Problem-Solving Skills
- (3) Life Skills
- (4) Livelihood and Trade Skills with ICT cross-cutting the different domains.

During in-service courses conducted by the MIE, all Educators and Heads of schools were provided a CD of the new curriculum. This MIE training programme which started in December 2012 is still being pursued.

New resource materials have been introduced along with a new pedagogy, shifting from the traditional subject teaching to domain teaching. Emphasis is laid on activity-based teaching and learning, teamwork and other innovative pedagogical approaches with a view to engaging fully the students and enriching their learning experiences.

The timetable for the pre-voc Years III and IV has been adjusted in line with the mixed mode of attendance with students following the course at both their school and a MITD Training Centre.

Mr Speaker, Sir, as regards part (d) of the question, I wish to inform the House that contrary to previous years where prevocational students did not receive any formal established qualification, the 4<sup>th</sup> year of the pre-vocational education will now lead to a formal recognized certification pitched at Level 1 of the National Qualifications Framework. The new course materials contain a built-in system of continuous assessment that would contribute towards the award of the final PVE certification.

The Quality Assurance and Inspection Division of my Ministry together with the Pre-voc Inspectors and the MIE are monitoring the implementation of the curriculum and the quality of teaching and learning in the pre-vocational stream. Two pre-vocational coordinators have been newly appointed, and will also be involved in the monitoring and evaluation of the curriculum. They are presently attending briefing sessions at the MIE on the delivery and implementation of the curriculum.

**Mrs Radegonde-Haines:** Mr Speaker, Sir, I understand the hon. Minister made a very impressive presentation on the curriculum and syllabus prepared by the MIE. In the light of what he has just said, can the hon. Minister tell us about the implementation of the curriculum at the public and private schools in zones 3 and 4 he has just mentioned? Is there a proper monitoring system in place to ensure that same is being delivered, and that respectively both teachers and children have a portfolio as evidence of what is being done at school?

**Dr. Bunwaree:** I did mention the monitoring work in my reply. I have been explicit on that. I must say that this is a new programme. It has started only this year. We are, in fact, having a first



assessment - I think it is tomorrow. The Monitoring Unit is meeting under my chairmanship to see whatever difficulties there could be, as is always the case when we start programmes like that.

**Mrs Labelle:** The hon. Minister has mentioned the different subjects being taught, and he has even mentioned this Livelihood and Trade Skills. May I ask the hon. Minister whether he is aware that the practical side of this curriculum is not being implemented? For example, for agriculture, it is only theory, woodwork is theory, ICT is theory because the pupils of Pre-voc do not have access to ICT labs or any other labs, and in so many of these schools there is not even a small garden. How are we going to implement this syllabus, when we do not give access to such facilities to these students?

**Dr. Bunwaree:** This is a problem of the past. In fact, this is what we are correcting. We have just started this programme in the month of January, and there are teething problems, as I said. Of course, all this will be taken care of. If the hon. Member is patient, she will see the changes that are going to come out of this new system soon.

**Mrs Radegonde-Haines:** Mr Speaker, Sir, with regard to the first attempt of the CPE failures, the philosophy of 'no child left behind' is becoming irrelevant. Can the hon. Minister tell us what are the odds of the CPE failures to succeed a second time in front of a compiled syllabus, if I understood very well, of Maths and ICT only, including basic Standard 3(iv) Part Year I, Standard 4(v) Part II and Standard 6 Year Part III, whereas languages, Science, History and Geography are not covered by the proposed syllabus, and being delivered by untrained retired supply teachers within a time frame of one year only? In some cases, the manual given to complete the syllabus is not even accessible to the children. Therefore, they are being compelled to use the previous CPE books. Should he agree with me that the so-called...

**Mr Speaker:** I am sorry to interrupt the hon. Member. This is a speech! You are making a speech!

**Dr. Bunwaree:** Many questions in one question. All these are being taken care of. In fact, we have held an important forum, where all this was discussed, and we are in the process of implementing a few changes. But I will take on board whatever the hon. Member has said. There are some points which are interesting, and which have already been taken at the level of the forum.

**IN VITRO FERTILIZATION – LEGISLATION**

**(No. B/69) Mrs F. Labelle (Third Member for Vacoas & Floreal)** asked the Minister of Health and Quality of Life whether, in regard to the proposed introduction of legislation in relation to *In Vitro fertilization*, he will state where matters stand.

**Mr Bundhoo:** Mr Speaker, Sir, I am informed that a first draft Bill has already been prepared. Given the sensitive and delicate nature of the subject, my Ministry enlisted the support of experts under the African-Caribbean Pacific- Multilateral Trading System (ACP-MTS) through the Ministry of Foreign Affairs, Regional Integration and International Trade to review and consolidate the draft Bill.

In this connection, a seminar was organised on 21 September, 2012 whereat our local gynaecologists discussed the draft legislation with the foreign experts, and then it was circulated. It is proposed to hold a workshop by the end of May 2013 to study the proposed amendments, and then to bring the law forward in this august Assembly.

**Mrs Labelle:** May I ask the hon. Minister whether he is aware that, since 2006, seven years back, the support of the East, Central and Southern African Health Community was sought to provide some technical support? May I ask him whether there has been any response following that contact since seven years back?

**Mr Bundhoo:** May I, with your permission, Mr Speaker, Sir, read this again. In this connection, a seminar was organised on 21 September, 2012 with regard to the draft Bill, and what was said by the experts of the ACP/MTS through the Ministry of Foreign Affairs, and I must say here, through works initiated by previous Ministers of Health.

**Dr. S. Boolell:** Mr Speaker, Sir, being given that female sterility has not been considered as a disease in our Government hospitals, and that consequently *In Vitro fertilization* is not conducted, may I ask the hon. Minister whether his new legislation will take on board *In Vitro fertilization* both in the private sector and the public sector, so as to make it a disease which is treatable in our Government hospitals?

**Mr Bundhoo:** Mr Speaker, Sir, I refer the hon. Member to exactly the same question he put some time back, to which a reply was given by hon. Mrs Hanoomanjee. I refer him to this reply given by hon. Mrs Hanoomanjee.

**Dr. S. Boolell:** Mr Speaker, Sir, on a point of order! I put a question to the hon. Minister. If he cannot answer, he does not answer; not refer to hon. Mrs Hanoomanjee!

**Mr Bundhoo:** Mr Speaker, Sir, let me remind the hon. Member that he has put exactly the same question. I am, therefore, referring him to the answer given by hon. Mrs Hanoomanjee.

*(Interruptions)*

**Mr Speaker:** I am on my feet! Hon. Minister!

*(Interruptions)*

Silence! Hon. Minister of Health, this is Question Time. To a question - it is elementary - there must be an answer. Do you have an answer to the question?

**Mr Bundhoo:** I have exactly the same answer hon. Mrs Hanoomanjee delivered to him when she was Minister.

*(Interruptions)*

**Mr Speaker:** I cannot compel him to answer

**Mrs Labelle:** Mr Speaker, Sir, since it is an issue which has been raised in this very House several times, and we have heard that the Bill is under preparation and so on and so forth, may I ask the hon. Minister whether, this time, he is in a position to give a time frame for the presentation of this Bill?

**Mr Bundhoo:** Mr Speaker, Sir, I am going to read that again. If I may, Mr Speaker, Sir, let me repeat what I said. It is proposed to hold a workshop at the end of May 2012 to study the proposed amendment. I must here say something to hon. Dr. S. Boolell, who is a Doctor by profession, hon. Mrs Labelle and hon. Mrs Hanoomanjee. We have canvassed this in this House. We all agree that it is a piece of legislation that will raise passion. It is delicate, it is sensitive, and that's why it must be debated fully with all the experts concerned before we bring it into the House. In certain countries, it has taken years to bring these amendments, and Mauritius is no exception. It will take some years, but I can assure the House that all efforts are being done to bring this piece of legislation to the House.

**MINISTRY OF GENDER EQUALITY, CHILD DEVELOPMENT & FAMILY WELFARE -  
PLANNING & RESEARCH SECTION**

(No. B/70) Mrs S. B. Hanoomanjee (Second Member for Savanne & Black River) asked the Minister of Gender Equality, Child Development and Family Welfare whether, in regard to the women, the children and the family, she will state the researches carried out by the Planning and Research Section of her Ministry, over the past three years, indicating the outcome thereof, in each case.

**Mrs Martin:** Mr Speaker, Sir, the Planning and Research Unit set up in 1989 (PRU) acts primarily as a coordination and support unit, which provides technical back-up to other units of the Ministry. It designs policies, action plans and programmes geared towards the promotion of gender equality, empowerment of women, protection and development of children, safeguarding of family ties, and enhancement of the wellbeing of the community.

It is also responsible for the preparation and implementation of multilateral and bilateral projects, and the preparation of reports that have to be forwarded on a regular basis to regional and international organisations.

One of the responsibilities of the Unit is to initiate research and situation analysis on children, family and women. However, the Unit faces human resources constraints. In 2010 the scheme of service for Research Officer has been prescribed, but due to resource constraints so far no funding has been provided to fill in this post.

However, the project write-ups and Terms of Reference for consultancy services for studies have been prepared by the Planning and Research Unit for implementation in 2013, *inter alia*, on -

1. Balancing Work and Family Life Programme;
2. Audit of the Child Development Unit;
3. Impact Assessment on Strengthening Values for Family Life Programme;
4. Situation Analysis on Family Values in Mauritius;
5. Impact assessment of Men as Partners Programme, and
6. Development of a National Child Protection Strategy

**Mrs Hanoomanjee:** Mr Speaker, Sir, can I ask the hon. Minister whether these researches have already been initiated or has she said that she is facing human resources problem and it will be done in future?

**Mrs Martin:** In fact, Mr Speaker, Sir, what I have said is that we have elaborated project write-ups and Terms of Reference prepared for implementation in 2013. So, we have not yet started those projects and research, it is going to be outsourced.

**Mrs Hanoomanje:** Can I ask the hon. Minister whether she is aware that in her report the Ombudsperson for children had observed that there was a complete breakdown of communication between the main Units of the Ministry and the different branches of the Ministry, and the Ombudsperson for Children had recommended the review of the whole system of Family Support Bureaux? Can the hon. Minister say what concrete action has been taken by the planning section of the Ministry to address this issue?

**Mrs Martin:** Mr Speaker, Sir, we have, at the level of the Ministry and the Planning Research Unit, devised project write-ups and Terms of Reference for an audit of the Child Development Unit, as recommended by the Ombudsperson and as I announced in my Budget Speech last year. The tender has been launched already on one occasion, but the bid was non-responsive and we will be launching a new tender for regional and international bidders as from 15 April.

**Mrs Ribot:** Mr Speaker, Sir, I would like to know from the hon. Minister whether the Planning and Research Section of her Ministry has carried any research on such important issues as street children, child prostitution and suicide among the youths?

**Mrs Martin:** As I have indicated, Mr Speaker, Sir, the Planning and Research Unit suffers from a lack of human resources and one of the problems that we have is the recruitment of one Research Officer for whom we have devised a scheme of service, but due to financial constraints, no funding has been provided for this post.

**Mrs Ribot:** Mr Speaker, Sir, I would like to ask the hon. Minister whether - we know that her Ministry is facing human resource constraints and financial constraints - we should understand that such important researches are never going to be carried out?

**Mrs Martin:** The hon. Member is pre-empting on the future; I cannot do that. But, as at now, I can say that we have only three officers of the technical cadre who work within the Planning and Research Unit (PRU), one Head, one Coordinator and one Family Welfare Protection Officer, which is clearly not enough for us to conduct our studies and surveys as such. However, we are outsourcing our different projects as indicated in my answer.

**Mrs Dookun-Luchoomun:** Mr Speaker, Sir, may I ask the hon. Minister who just mentioned that she is outsourcing research projects, whether among the research projects that she intends to get started

this year, - as she mentioned earlier, would include research work on street children and child prostitution?

**Mrs Martin:** Mr Speaker, Sir, I have already indicated a list of six subjects which are going to be launched this year.

**Mr Jugnauth:** Can the hon. Minister in the meantime agree to table the project write-ups and the Terms of References for those researches that are going to be carried out?

**Mrs Martin:** I can examine the possibility, I do not see why not.

**Mr Speaker:** One last question to hon. Mrs Ribot!

**Mrs Ribot:** According to the list which the hon. Minister gave us about the projects that are going to be carried out this year, - in the near future - I do not think we heard anything about those subjects that we addressed, that is, street children, child prostitution and suicide among the youths.

**Mrs Martin:** If the hon. Member was attentive enough she would have listened...

*(Interruptions)*

...she would have listened...

*(Interruptions)*

Mr Speaker, Sir, let me answer...

*(Interruptions)*

She asked a question and I can answer.

*(Interruptions)*

If she was attentive enough...

*(Interruptions)*

**Mrs Ribot:** Mr Speaker, Sir,...

*(Interruptions)*

**Mrs Martin:** No, I am not. I am not giving way...

*(Interruptions)*

**Mr Speaker:** Please! I am on my feet! The hon. Member is on a point of order.

*(Interruptions)*

She is on a point of order!

*(Interruptions)*

**Mrs Ribot:** Mr Speaker, Sir, I would like to raise a point of order!

*(Interruptions)*

**Mr Speaker:** Yes!

**Mrs Ribot:** I asked a question to the hon. Minister, I am not expecting any comment on her part. I am just expecting an answer!

*(Interruptions)*

**Mrs Martin:** Is that a point of order, Mr Speaker, Sir?

*(Interruptions)*

I am not imputing motives.

*(Interruptions)*

**Mr Speaker:** Well, hon. Ms Deerpalsing, I am the Speaker!

*(Interruptions)*

And I decide! The question has been put to the hon. Minister and she has to answer the question and not to make comments, please!

**Mrs Martin:** Thank you, Mr Speaker, Sir, but, I would expect the same from the other Member who is asking questions...

*(Interruptions)*

No, I would expect the same treatment, Mr Speaker, Sir, because she...

*(Interruptions)*

No, she is going a bit off limit. Mr Speaker, Sir, what I said in my answer...

*(Interruptions)*

**Mr Speaker:** Sorry, is the hon. Minister answering the question?

**Mrs Martin:** Yes, I am answering now, Mr Speaker, Sir, thank you. I have mentioned in my answer that...

*(Interruptions)*

...among the project write-ups by the Planning and Research Unit, we also have the development of a National Child Protection Strategy which would imply that such subjects would also be taken on board.

**Mr Speaker:** Last question to hon. Mrs Hanoomanjee!

**Mrs Hanoomanjee:** Mr Speaker, Sir, the hon. Minister has said clearly that she has human resources problem in this particular Unit. Why hasn't she, up to now, set up a platform with competent people...

*(Interruptions)*

**Mr Speaker:** Silence!

**Mrs Hanoomanjee:** ...from the University of Mauritius, the Mauritius Research Council, the National Women's Council so as to set up a platform in the absence of the human resource that she has for this Unit?

**Mrs Martin:** Mr Speaker, Sir, the question is about the researches that have been carried out by the Planning and Research Unit of the Ministry. In fact, what I am answering is that we do have constraints in terms of human resources. It is not that we did not ask for them, we have asked for them, but we have not yet had them. We have also asked for the post of a Lead Analyst which, I believe, will come from the Ministry of Finance. This is going to help us also in devising our strategies.

**Mr Speaker:** Hon. Mrs Hanoomanjee, next question!

#### **DIALYSIS - PATIENTS**

**(No. B/71) Mrs S. B. Hanoomanjee (Second Member for Savanne & Black River)** asked the Minister of Health and Quality of Life whether, in regard to dialysis, he will state the number of patients who have attended sessions therefor, over the past two years, indicating the number of –

- (a) private clinics offering dialysis sessions on behalf of the Ministry of Health and Quality of Life, and
- (b) patients who have passed away during dialysis sessions.

**Mr Bundhoo:** Mr Speaker, Sir, patients suffering from renal failure are provided with free dialysis facilities both in the public hospitals and in private clinics. The number of patients who have attended dialysis sessions over the past two years is as follows -

<u>Year</u>	<u>Number of patients</u>
2011	1,362



2012 1,383

Concerning part (a) of the question, there are seven private clinics which are offering dialysis services on behalf of my Ministry.

With regard to part (b) of the question, there were 23 deaths for each of the years 2011 and 2012, which represent 1.7 % of the total number of patients on dialysis.

**Mrs Hanoomanjee:** Can I ask the hon. Minister whether for these deaths which have occurred during dialysis any enquiry has been carried out?

**Mr Bundhoo:** I must say, Mr Speaker, Sir, that I have asked the questions. Enquiry has been carried out and in most of the cases it can be summarised into three –

- (i) it was due mainly to heart attack and stroke;
- (ii) congestive heart failure, and
- (iii) septicemia.

I am not saying these are the only three causes, there might be other causes but these are the three main causes.

**Dr. S. Boolell:** Considering that there have been complaints from many sectors as regards the quality of the service provided by the dialysis centres, has the hon. Minister been monitoring and standardising the quality of care given to the dialysis patients in all the private clinics and in the hospitals?

**Mr Bundhoo:** I have to say one thing, here, to the hon. Member that we have now introduced the service of a RMO at all dialysis centres, which were not there before. They are there on a permanent basis. We have one in Flacq, which is not in the same compound, so, we have one there posted on a permanent basis whereas all the other centres are connected to the main hospital and we have regular visits of the Registered Medical Officer (RMO) to ensure that supervision is carried out all the times.

Secondly, only three or four weeks ago, I personally had meetings with the Association of Dialysis Patients and we are reviewing the facilities that are presently being given in order to update it, and as the hon. Member rightly said to standardise it.

**Mr Baloomoody:** One of the main problems faced by these patients having renal failure is that even if they have an appropriate donor, there is no law here with regard to transplant of kidney and they have to go abroad and those who cannot afford cannot go abroad. So, can I ask the hon. Minister what action is being taken on this side?

**Mr Bundhoo:** I am very sensitive to the question put by the hon. Member, but I am afraid that this is not related to the main question asked to me. If the hon. Member comes with a question, I will

surely answer that. But I have to assure the House that - this is very sensitive - at present, my Ministry is working on the protocol, with regard to organs transplants for the private and the public altogether.

**Mr Speaker:** Last question to hon. Mrs Hanoomanjee!

**Mrs Hanoomanjee:** In view of the number of deaths which have occurred during dialysis sessions, doesn't the hon. Minister think that it is high time for qualified nephrologists to supervise those dialysis sessions?

**Mr Bundhoo:** I think that I have made a mistake. This is what I meant earlier. In fact, we have recruited nephrologists. One is posted at SSRN Hospital, and he is also covering Dr. A. G. Jeetoo Hospital. One is posted at Victoria Hospital and Dr. Gaya - if I am not mistaken - is at Rose Belle Hospital. We have one who is a RMO, with specialist qualification in nephrology at the Flacq Hospital. I do agree that there are not enough specialist nephrologists in Mauritius. We are trying every effort possible to recruit them, but, unfortunately, we do not have them in Mauritius, and we shall continue to make all efforts to have the services of nephrologists. But I must assure the House that my Ministry has taken the necessary steps to cover all five regional hospitals where dialysis services are being offered for the services of nephrologists.

#### **MINISTRY OF SOCIAL SECURITY, NATIONAL SOLIDARITY AND REFORM INSTITUTIONS - CHILD ALLOWANCE**

**(No. B/72) Ms S. Anquetil (Fourth Member for Vacoas & Floreal)** asked the Minister of Social Security, National Solidarity and Reform Institutions whether, in regard to the allowance of Rs750 per child per month of families earning less than Rs6,200 per month, she will state, since the introduction thereof to date, the number of applications received therefor and beneficiaries thereof.

**Mrs Bappoo:** Mr Speaker, Sir, as the House is aware in the Budget Speech 2013, it was announced that the Government would provide a minimum support of Rs750 per child per month for children in all families earning less than Rs6,200 per month. After consultation with the Ministry of Finance and Economic Development in January 2013, it was agreed that the criteria to be applied for this measure, would be as follows -

- (i) the child allowance would be limited to three children per family;
- (ii) the families have to be registered under the Social Registrar of Mauritius;
- (iii) the children should have, at least, 90% school attendance rate for two months running, whereas the minimum school attendance rate for children with disabilities would be 75%,  
and

- (iv) the measure would apply to students between 3 and 23 years attending pre-primary, primary, secondary, pre-vocational, vocational, special needs schools and tertiary institutions.

At date, Mr Speaker, Sir, the Ministry has registered 12,916 applications, that is, 11,983 for Mauritius and 933 for Rodrigues. As for the number of eligible beneficiaries, my Ministry is presently processing these applications received to determine eligibility of the students, which is a quite lengthy and time-consuming exercise, including processes such as calling for applications, which were done in mid-January through a communiqué in the press and the MBC radio and TV. The registration of applications, which took place from 21 January to 02 February 2013 were extended for one more week. Also, there is the collection and verification of data as per application received at the different local Social Security Offices and site visits to establish the socio-economic profile of applicants. Then, the development of protocols with relevant stakeholders, namely, the Ministry of Education and Human Resources and the Tertiary Education Commission for the timely submission of attendance returns to my Ministry, and finally, the development of the appropriate software for the processing of applications by the State Informatics Ltd.

These processes, Mr Speaker, Sir, have reached the final stage with the view to meeting the objectives for effective payment as from the month of May. The House may wish to note that the public was informed through a press conference, which I held myself on 08 January 2013 and that the time frame for implementation has been set for the month of May and the first payment will be effected in May 2013 with retrospective effect as from January 2013.

**Ms Anquetil:** Mr Speaker, Sir, being given that it has been reported that there was a lack of staff during the registration process, can the hon. Minister inform the House what necessary measures have been taken to face the problem?

**Mrs Bappoo:** Mr Speaker, Sir, at the very beginning, that measure needed additional human resources, so we had consultation with my colleague, the hon. Minister of Finance. The Ministry of Finance and Economic Development has agreed to disburse necessary funds for the filling of all existing vacancies of Social Security Officers, and, in addition, some ten trainees, under the Service to Mauritius programme, have also been attached to my Ministry for the collection of data.

**Mrs Radegonde-Haines:** Mr Speaker, Sir, is the hon. Minister aware that the last day of registration was a big chaos in my Constituency? I have myself, in collaboration with the Police and the officers ...

*(Interruptions)*

**Mr Speaker:** The hon. Member should put her question, please!

**Mrs Radegonde-Haines:** This is my question. I ask if the hon. Minister is aware that the last day of registration was a big chaos in my Constituency. Myself, in collaboration with the Police, I have - as there was only one officer - filled in the form at the Social Security Office of Bambous in Constituency No. 14. I have recorded the names and the phone numbers of applicants on a sheet of paper and same has been done at the Social Security Office of Chemin Grenier to ensure social order. Can the hon. Minister tell us when these applicants will be called for registration and whether they will receive arrears from January, and if not, why not?

**Mrs Bappoo:** Mr Speaker, Sir, I need, first, to thank the hon. Member for having helped on that chaotic day. Secondly, the last day for such programme - for applications to be received - is always chaotic because it is always *les retardataires qui arrivent le dernier jour*. Being a Saturday it becomes very difficult. That is why we extended a few more days. But I want to assure the hon. Member that all the applications will be taken on board under the SRM Project and the various processes will be done so that the eligibility of the application can be defined for payment to be assured.

**Mrs Hanoomanjee:** Will the hon. Minister concede that the implementation of this project has not been sufficiently prepared as many of these people who are really poor people have had to pay several times travelling expenses. They have come, they have had to go back and come, at least, twice or thrice before their case be taken, although, they had all their papers and documents with them?

**Mrs Bappoo:** Mr Speaker, Sir, in the communiqué that was given, it was well stipulated what are the various documents and papers that the applicants need to come with. Many of them don't come with all the requirements; they have to go and come back again. But this exercise has now been completed and all the applications are undergoing through the processes of the Social Register Programme for the Proxy Means Test, and all the applications will be taken on board to work out for the eligibility. No one will be kept excluded.

**Dr. S. Boolell:** Mr Speaker, Sir, I would like to ask the hon. Minister whether the revenue of the family of Rs6,200 is inclusive or exclusive of overtime earnings by the family?

**Mrs Bappoo:** Overtime is always taken on board as the monthly revenue of the families.

**Mr Uteem:** Mr Speaker, Sir, lots of people who are concerned by this measure are illiterate and don't have access to information and education. In these circumstances, will the hon. Minister consider liaising with the National Empowerment Foundation and other agencies which have already a database on people living in absolute poverty and go towards these people, because lots of people, even in my Constituency, were not aware, despite all the information being published in the press?

**Mrs Bappoo:** We always have the same problem, but I want to assure the House, Mr Speaker, Sir, that this measure is dynamic. At any time they can come and make their registration and it will be taken on board. I, myself, I have explained in detail this new measure. Officers have gone in the various media and all explanations have been given. That is why we have had some 12,000 applications, which means the message has gone to these families with revenue of Rs6,200. But the Social Security Offices have not been closed to anybody. Anyone can come at any time of the year and the application will be processed.

**Mr Speaker:** Do you have a question, hon. Obeegadoo?

**Mr Obeegadoo:** Yes, Sir.

**Mr Speaker:** Yours will be the last question. Let us have the question of hon. Mrs Ribot.

**Mrs Ribot:** Mr Speaker, Sir, I would like to ask the hon. Minister whether the sum that the beneficiaries are entitled to is Rs750 or plus Rs257 that they are supposed to get through the income support?

**Mrs Bappoo:** It is over and above. The income support is maintained over and above to what they will have as Rs750.

**Mr Obeegadoo:** Mr Speaker, Sir, I am sure the hon. Minister is aware that the number of one-parent families has risen dramatically since the year 2000. Being given that the phenomenon of child poverty is a real problem in our society, will she agree to review this point she just made to in answer to hon. Dr. S. Boolell whereby the amount of Rs6,200 is inclusive of overtime? I am sure the hon. Minister gets the point that a single mother who is trying to feed her children and is working overtime should not be penalised for that fact?

**Mrs Bappoo:** As per regulations, I think, the 1984 one has been included in the computation of the monthly earning. And since then, overtime is included, it is not excluded. But it is a matter of policy and we will think about it in further discussions with the Ministry of Finance at the time of Budget consultation.

#### **PRIMARY & SECONDARY SCHOOLS - ACTS OF VIOLENCE**

(No. B/73) Ms S. Anquetil (Fourth Member for Vacoas & Floreal) asked the Minister of Education and Human Resources whether, in regard to acts of violence in public primary and secondary schools, he will state if a survey in relation thereto has been carried out by his Ministry, over the past five years, and if so, give details thereof and if not, why not.

**Dr. Bunwaree:** Mr. Speaker, Sir, my Ministry has already established a mechanism for reporting of acts of indiscipline and violence for follow-up and monitoring. Statistical information regarding acts of violence and incidents involving among others, physical aggression/assault, fight among students, bullying, verbal abuse, corporal punishment, damages to Government property is recorded at the school and zonal directorate levels for remedial and follow up purposes.

Information regarding all such cases over the past five years in the public primary and secondary schools in the four zones is being compiled.

However, actions have been initiated in respect of these cases in line with the school Management Manual and rules and regulations governing discipline. Moreover, cases of criminal offences are referred to the Police while those requiring counselling and psychological back-up are referred to the National Education and Counselling Service. Other cases are also referred to the Child Development Unit or *Brigade pour la protection des Mineurs*.

My Ministry has already a networking arrangement with the Police Authorities, Probation and After Care Service, Trade Unions, Heads of Schools, PTAs, Students Council, etc.

Mr Speaker, Sir, in addition, a number of concrete measures have been taken to curb indiscipline and violence in schools. These include -

- (i) installation of CCTV Cameras to enable proper monitoring and reinforcement of security in schools throughout the day. Our objective is to cover all schools by July 2013 - very soon. To date, 21 schools have already been covered;
- (ii) Police patrolling to enhance surveillance and vigilance in the vicinity of schools. The Police Department has been provided with a list of high risk schools;
- (iii) SMS service to parents (E-Register) with a view to curtailing unexcused absences and truancy among students;
- (iv) Disciplined School Environment to instil positive and disciplined behaviour among students, sensitisation campaigns are carried out by Heads of schools with the participation of the school community at large (PTAs, Student Council and Educators);
- (v) setting up of a Student Care and Counselling Desk to provide necessary support to students facing emotional, family, stress-related and other psychological problems with a view to promoting positive behaviour through listening and supporting students;
- (vi) Pastoral Care Committee to deal with problems that secondary students might encounter at school or at home, and

- (vii) Disciplinary Committees to take sanctions against students who are involved in case of violence, which may also lead to their rustication from schools for a period of time.

Mr Speaker, Sir, to further reinforce security on school premises, my Ministry will soon be recruiting private security guards to service high risk schools during the day. Tendering procedures have been initiated for implementation on a pilot basis in some 13 schools.

Mr Speaker, Sir, the issue of violence at schools is a complex one. However, I am confident that with the support and contribution of each and everyone and, in particular, the engagement of parents, the problem of violence will surely be more effectively addressed.

**Ms Anquetil:** Mr Speaker, Sir, being given that school violence is a serious problem, can the hon. Minister inform the House whether his Ministry will come forward with regulations for safety measures in all public and secondary schools? *Par exemple, un School Safety Response hotline pour permettre aux élèves, victimes de violence, de dénoncer?*

**Dr. Bunwaree:** Yes. This is an interesting suggestion already being considered at the Ministry. As I said, a desk has already been set up in each of the secondary schools for all these matters to be taken up.

**Mrs Labelle:** Mr Speaker, Sir, the hon. Minister has mentioned a list of measures, and I am sure he knows that this is not working.

*(Interruptions)*

I know all the measures that he has mentioned. This is why I will ask the hon. Minister whether he has taken cognizance of the report published by the National Economic Social Council - it is the Commission on social affairs of the NESC - and the recommendations made? Allow me, Mr Speaker, Sir, to support by only one example. He has mentioned the Student Council. Is he aware that the Student Council, in most schools, is not active as mentioned in this report? What measures, for example, will he take to reactivate, to promote the Student Council to help in the issue of violence in our schools?

**Dr. Bunwaree:** Insofar as the Student Council is concerned, in some schools it is working very well and in others it is not working well. This, I do agree, but we are reviewing. I am personally looking at the question of Student Council in the colleges.

**Ms Deerpalsing:** Mr Speaker, Sir, is the hon. Minister aware that the Roots of Empathy Program in Canada has been globally renowned to reduce dramatically school violence as a programme, proven to work, and is he then proposing to learn from that programme? If my memory serves me right, the Roots

of Empathy Programme was in the last Government Programme. Can the hon. Minister inform the House whether his Ministry will go for a type of Roots of Empathy Programme as is proven to work in Canada?

**Dr. Bunwaree:** But you see in the programme it works, it is still, but what I have mentioned, I have lots of projects that are ongoing and some have just started. This is why, probably, the hon. Members of the Opposition are not aware and, in fact, they are not giving results immediately. We have to wait a bit. But, when all these are in place, then the Roots of Empathy Programme will have its *raison d'être plus que jamais*.

**Mr Bodha:** Mr Speaker, Sir, we know that bullying can have very severe consequences, but in view of the fact that the hon. Minister mentioned that on a pilot scheme we are going to have the security guards in high risk schools - I think the number was 13 - may I ask the hon. Minister how many schools fall under the category of high risk schools throughout the island?

**Dr. Bunwaree:** Well, we have a number of schools and, as and when another school enters the list, one gets out of it. So, we have chosen these 13 schools because we have seen important problems in those schools. In other schools, they are manageable. This is why we have chosen these 13 schools on a pilot basis, but the idea is to extend the programme after that.

**Mr Speaker:** Hon. Mrs Ribot!

**Mrs Ribot:** Mr Speaker, Sir, I would like to ask the hon. Minister whether he is aware that the NESCS report pointed out the lack of psychologists and social workers employed by the Ministry and pointed out that the Ministry was currently in the process of recruiting more psychologists and educational social workers? I would like also to ask him where matters stand as far as that recruitment is concerned.

**Dr. Bunwaree:** The question was put last year. The number was 12 and now it is 18. We have done an important work, but it is a question of finance also. I would like to have more.

**Mr Speaker:** Last question, hon. Mrs Labelle!

**Mrs Labelle:** Mr Speaker, Sir, the hon. Minister has been very explicit regarding disciplinary measures. May I ask him what about disciplinary approaches and will the hon. Minister consider that educators be better equipped, because this is a very accepted view that our educators is not equipped? So, will the hon. Minister consider equipping our educators and maybe we can consider e-learning because we have a lot of teachers to be trained? Will he consider e-learning so that we can equip our educators for disciplinary approaches?



**Dr. Bunwaree:** Yes, I am quite aware of that. E-learning has just started and it is going to take more and more importance in the weeks and months to come.

**Mr Speaker:** I will allow the author a further question.

**Ms Anquetil:** Merci, M. le président. Est-ce que le ministre aurait à sa portée les chiffres concernant le nombre d'élèves suspendus ou expulsés des écoles?

**Dr. Bunwaree:** Expulsé des écoles. *As far as I remember*, depuis que je suis ministre, il y a un seul et ça a été fait un an ou un an et demi de cela. Pour le reste j'ai dit que *we are compiling the figures and we will let you be aware of it*.

**Mr Speaker:** Next question hon. Mrs Ribot.

### CHILDREN'S BILL - INTRODUCTION

(No. B/74) **Mrs L. Ribot (Third Member for Stanley & Rose Hill)** asked the Minister of Gender Equality, Child Development and Family Welfare whether, in regard to the proposed introduction of a Children's Bill, she will state where matters stand.

**Mrs Martin:** Mr Speaker, Sir, as regards the proposed introduction of a Children's Bill, there have been wide consultations with different stakeholders through 12 workshops conducted from November 2010 to April 2012. A preliminary draft has been subsequently prepared by the Attorney General's Office in May 2012 based on the various recommendations emanating from the workshops. A revised draft following observations from Officers of my Ministry was submitted on October 2012.

I chaired five meetings as from 15 January 2013 to 06 February 2013 to examine and discuss the various provisions of this revised draft as well as recommendations emanating from the workshops with Officers of the Attorney General's Office and Officers of my Ministry.

Issues pertaining to different Ministries have been compiled and views on the proposed provisions and recommendations are being sought from Ministries concerned to enable finalisation of the draft Bill.

**Mrs Ribot:** Mr Speaker, Sir, I would like to know, first of all, from the hon. Minister if she could justify the delay related to the preparation of the Children's Bill announced since 2010.

**Mrs Martin:** Mr Speaker, Sir, I do not really understand what the hon. Member means by delay. In fact, as I have explained, the 12 workshops have been conducted since November 2010 to April 2012. As from there, the Attorney General's Office submitted a preliminary draft in May and its revised draft

was in October and as from there we also had discussions with officers of the Attorney General's office and officers from my Ministry. We are still going on with the discussions.

**Mrs Ribot:** Mr Speaker, Sir, among the Ministries which had been consulted in the meetings for the preparation of the Bill, I find many Ministries, but the Ministry of Tourism and Leisure and the Ministry of Labour, Industrial Relations and Employment do not seem to have been consulted. I would like to know from the hon. Minister, why?

**Mrs Martin:** Mr Speaker, Sir, from the list that I have, the 12 workshops did include the Ministry of Labour, Industrial Relations and Employment and the Ministry of Tourism and Leisure.

**Mr Ganoo:** Can the hon. Minister inform the House whether the aspect of the sexual abuse of children will be addressed in this Bill?

**Mrs Martin:** Indeed, Mr Speaker, Sir, what we are trying to do is make it very comprehensive to harmonise all the existing legislations and be in conformity with the convention on the rights of the child.

**Mr Ganoo:** Can I ask the hon. Minister whether she will liaise with the Attorney General to take on board certain clauses in the Sexual Offences Act which were meant at that time to protect children victims of sexual abuse? It came before this House some time back and was referred to a Select Committee, but unfortunately because the House was prorogued the report was never published.

**Mrs Martin:** I welcome this proposition from the hon. Leader of the Opposition because, indeed, we are working towards improving the law with regard to children and I am sure with the Attorney General's help, this is going to be taken on board.

**Mr Speaker:** Last question!

**Mrs Ribot:** Mr Speaker, Sir, I would like to know from the hon. Minister whether we could expect the issues of child prostitution and street children to be included in the Bill?

**Mrs Martin:** As I have said, Mr Speaker, Sir, the protection of children and the different mechanisms which involve the protection of children are going to be taken on board and, therefore, this subject as well, I believe, will have its place there.

#### **NATIONAL CHILDREN'S COMMITTEE – SET UP**

(No. B/75) **Mrs L. Ribot (Third Member for Stanley & Rose Hill)** asked the Minister of Gender Equality, Child Development and Family Welfare whether, in regard to the National Children's Committee, she will state if it has been set up and, if so, indicate the *modus operandi* thereof and, if not, why not.

**Mrs Martin:** Mr Speaker, Sir, I am informed that, in accordance with the National Children's Council Act 2003, the National Children's Committee has been set up in March 2011 for a period of three years.

The main objectives of the National Children's Committee are -

- (i) to create a National Interactive Children's Forum;
- (ii) to encourage children to express their views on all issues concerning children;
- (iii) to empower children to better understand child rights and development;
- (iv) to encourage children's participation, and
- (v) to enable them to acquire values such as citizenship, solidarity and social justice.

The National Children's Committee comprises a President and a Vice President who are elected by the members and there are 13 other members all aged between 15 to 18 years. The Secretary of the National Children's Committee is a staff of the National Children's Council and is appointed by the National Children's Council Board. As per the provision of the National Children's Council Act, meeting of the National Children's Committee is to be held at least once every three months.

Since its setting up, eight meetings of the National Children's Committee have been held. Various activities have been organised such as a workshop on child participation and the UN Convention on the Rights of the Child, theatre-debate on family values, celebration of music day, slam show and visits to Residential Care Institutions.

However, since July 2011, the National Children's Committee has been encountering difficulties to continue with its activities and meetings as most of the children are students of School Certificate and Higher School Certificate. They were taken up with their studies and examinations. Furthermore, they have indicated that the term of office of three years is too long for them.

The last meeting was held on 21 June 2011, and only three members turned up. In October 2011, the NCC Board decided to review and revamp the whole Act in view of certain anomalies which had been pointed out during the consultations on the Children's Bill.

After a workshop on statutory bodies, it was decided that the exercise to review and revamp the NCC Act would be finalised only after the enactment of the Children's Bill, so as to harmonise these two legislations on children.

Given the circumstances, the NCC Board agreed on 07 October 2011 to keep this project in abeyance.

**Mrs Ribot:** Mr Speaker, Sir, I would like to ask the hon. Minister if I have understood well when she said that the National Children's Committee has not been meeting since June 2011. So, can we say rightly that that National Children's Committee has not been operational since June 2011?

**Mrs Martin:** That is correct, Mr Speaker, Sir.

**Dr. S. Boolell:** Mr Speaker, Sir, may I ask the hon. Minister whether she would not consider converting the National Children's Committee from a Government NGO to one which is rather independent, taking on board not the staff of the Ministry but people of good standing in the community, so that we can actually take care of children?

**Mrs Martin:** Mr Speaker, Sir, I can assure the hon. Member that members of the National Children's Committee and members of the National Children's Council are persons of good repute as well. But, what I was going to say to the hon. Member, Mr Speaker, Sir, is that the children who form part and are members of the committee are children who have been selected through a selection exercise. They do not form part of the National Children's Council as staff or members of the Board.

**Mrs Hanoomanjee:** Can I ask the hon. Minister whether she would confirm that students above the age of 18 were also included in the National Children's Committee because usually a child is defined as somebody up to the age of 18.

**Mrs Martin:** I have the list with me, Mr Speaker, Sir. The time of the installation of the Committee, the children were not 18 years old. As I have indicated, the term of three years is one of the anomalies which have been pointed out. Since they started at 15 years of age, it would mean that after three years they would have been 18. That is one of the anomalies that have been pointed out.

**Mrs Labelle:** Mr Speaker, Sir, may I ask the hon. Minister whether she can give us an idea of the criteria used for the selection of these children, and whether the age was taken into consideration? The fact is that the mandate is three years. If we take someone at 17, this person will be over 18 during the mandate. So, is the age criteria taken into consideration?

**Mrs Martin:** Mr Speaker, Sir, I am informed that the criteria for selection were as follows: academic qualifications, knowledge on children's issues, general knowledge, fluency of language and communication skills, and personality. As regards the National Children's Council Act, in section 13(1), it is stated that the age is between 16 to 18 years, and in section 13(1) (b), it was indicated that the term of office was to be for three years. That's one of the anomalies which I have pointed out, and this is one of the reasons why we have to keep this project in abeyance.

**Mr Speaker:** Last question to hon. Mrs Ribot!

**Mrs Ribot:** Mr Speaker, Sir, regarding the selection, I would like to know from the hon. Minister whether there is *un appel à candidatures* to those children, where does it appear; whether in the newspapers, in schools. It is not very clear.

**Mrs Martin:** To set up a National Children's Committee, Mr Speaker, Sir, invitations by way of letter were addressed to all children of all children's clubs, education institutions, NGOs and children associations. I am informed that the selection team set up by the National Children's Council Board carried out the selection exercise, and the election of the President and the Vice President of the National Children's Council was held by the National Children's Council's Children Committee itself.

**Mr Speaker:** Hon. Quirin!

### SPORTS BILL - INTRODUCTION

(No. B/76) **Mr F. Quirin (Third Member for Beau Bassin & Petite Rivière)** asked the Minister of Youth and Sports whether, in regard to the proposed introduction of a new Sports Bill, he will state the time frame set therefor.

**Mr Ritoo:** Mr Speaker, Sir, I have to inform the House that my Ministry had targeted the introduction of the draft Sports Amendment Bill in the National Assembly during the current session.

However, the International Olympic Committee submitted new proposals for amendments at the end of November last. These proposals have been examined, and the valid ones have been incorporated in the draft legislation which is being vetted by the State Law Office. I am now expecting to introduce the Bill in the next session of the National Assembly.

**Mr Quirin:** M. le président, l'honorable ministre, dans sa réponse, vient nous dire qu'il a reçu des propositions du Comité international olympique. Est-ce qu'il pourrait dire à la Chambre quelles sont ces propositions, et s'il compte les prendre en considération par rapport aux futurs amendements à la loi?

**Mr Ritoo:** This is of a confidential nature. The hon. Member will have the opportunity to come with proposals when the Bill is circulated.

**Mr Quirin:** Je ne vois pas où est la confidentialité, M. le président. Mais, néanmoins, je ne vais pas polémiquer avec l'honorable ministre. Je sais aussi qu'il a reçu à son bureau, vendredi dernier, deux émissaires du Comité international olympique, notamment Messieurs Poivey et Berraf. Peut-il nous dire, effectivement, si les amendements qui sont à venir ont fait partie des discussions, et quels sont les engagements qu'il a pris avec ces émissaires ?

**Mr Ritoo:** M. le président, avant tout, je tiens à souligner que la demande pour une rencontre avec moi avait été faite par les deux envoyés du Comité international olympique, c'est-à-dire, Monsieur

Jérôme Poivey et Monsieur Mustapha Berraf. Une demande à laquelle j'ai agréé, vu les excellentes relations que nous avons avec le Comité international olympique. Deuxièmement, il a été convenu entre nous que cette rencontre devait se dérouler entre Monsieur Jérôme Poivey, bien sûr, quelques uns des mes officiers, un membre du State Law Office et moi-même. Troisièmement - et cela est très essentiel - il a été décidé entre nous que les discussions devraient rester sous le sceau de la confidentialité. Donc, il serait impoli de ma part, et je manquerais surtout à ma parole si je vous en disais davantage.

**Mr Speaker:** Hon. Dr. Sorefan!

**Dr. Sorefan:** Mr Speaker, Sir, the hon. Vice-Prime Minister is hauntedly unfit to answer this question presently. I am withdrawing this question to show respect to those who lost their lives in the recent flooding.

**Mr Speaker:** I don't understand.

*(Interruptions)*

**Dr. Sorefan:** I am withdrawing this question with due respect to the people who lost their lives.

*(Interruptions)*

#### **NTA FITNESS CENTRE - PRIVATISATION**

**(No. B/77) Dr. R. Sorefan (Fourth Member for La Caverne & Phoenix)** asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to the project for the privatization of the Fitness Centre, he will, for the benefit of the House, obtain from the National Transport Authority, information as to –

- (a) the names of the bidders therefor, indicating the name of the successful bidder;
- (b) if all the procedures have been followed therefor, and
- (c) the financial negotiations held and the implications thereof.

*(Withdrawn)*

**Mr Speaker:** Next question, hon. Lesjongard!

#### **CEB – RENEWABLE ENERGY PROJECTS**

**(No. B/78) Mr G. Lesjongard (Second Member for Port Louis North & Montagne Longue)** asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to renewable energy, he will, for the benefit of the House, obtain from the Central Electricity Board, a list of the projects above 5MW submitted thereto, indicating in each case, the –

- (a) names of the promoters thereof;

- (b) date of submission;
- (c) if discussions with the promoters thereof have started for the signature of a PPA;
- (d) cost of KWh to be purchased by the Board, and
- (e) subsidy to be distributed per KWh.

**The Deputy Prime Minister:** Mr Speaker, Sir, I am informed by the Central Electricity Board that four renewable energy projects are being considered for implementation as follows -

- (i) A 29.4 MW Wind Farm
  - (a) Name of promoter: Consortium Suzlon-Padgreen (selected following a bidding exercise)
  - (b) Date of submission: 27 April 2011
  - (c) Status: The Energy Supply and Purchase Agreement (ESPA) has been signed on 03 August 2012.
- (ii) A 9 MW Wind Farm
  - (a) Name of promoter: Aerowatt France & Mr Cyril Oudin
  - (b) Date of submission: 10 March 2010 (initial proposal was for a Wind Farm of 18 MW and later revised to 9 MW)
  - (c) Status: The Energy Supply and Purchase Agreement is being negotiated.
- (iii) A 15 MW Solar PV Farm
  - (a) Name of promoter: SARAKO PVP Co. Ltd, represented by Messrs Shyam Seetaram and a German Company TS Almeria
  - (b) Date of submission: 12 July 2012
  - (c) Status: The Energy Supply and Purchase Agreement is being discussed.
- (iv) A 10 MW Solar PV Farm
  - (a) Details of project: Tender launched with unit size between 1 MW and 2 MW
  - (b) Date of submission: 14 September 2012
  - (c) Status: Letter of Interest has been sent to the preferred bidder, Messrs Harel Mallac, to start discussions on the Energy Supply and Purchase Agreement.

Mr Speaker, Sir, as regards parts (d) and (e) of the question, I am informed by the CEB that each of the projects has a specific commissioning date and that the level of subsidy required per KWh is the difference between the price per KWh to be purchased and the marginal cost to the CEB. The forecast cost per KWh to be purchased ranges from Rs6.27 to Rs6.69 per KWh, and the subsidy required ranges from Rs1.51 to Rs1.88.

**Mr Lesjongard:** In a reply to a question put to the hon. Deputy Prime Minister some time back, that is, on 18 October 2011, with regard to solar photovoltaic projects, he had stated that there were...

**Mr Speaker:** I am sorry to interrupt the hon. Member. You said "he". "He" means whom?

**Mr Lesjongard:** The hon. Minister.

**Mr Speaker:** The hon. Minister! Say the hon. Minister.

**Mr Lesjongard:** The hon. Deputy Prime Minister stated that there were three projects which have been submitted to his Ministry since 2010. One is Alutec, two is Aqua Energy and three is Abhijeet Group and, today, he has informed the House that discussions are ongoing with regard to a new project called SARA KO, which was submitted on 12 July 2012 and the promoters of this project are relatives close to the Minister of Small and Medium enterprises. May I know from the hon. Deputy Prime Minister why, after having launched an Expression of Interest for an open procurement process and after having put aside three projects which have been submitted earlier, now CEB is negotiating with promoters ...

**Mr Speaker:** I am sorry, hon. Member. You have to put your question.

**Mr Lesjongard:** I am putting my question.

**Mr Speaker:** I have told the hon. Member not to make a statement. You are making a lengthy statement. Put the question.

**Mr Lesjongard:** May I ask the hon. Deputy Prime Minister why he said that now discussions are ongoing with a promoter who has submitted a project hardly six or seven months back?

**The Deputy Prime Minister:** Mr Speaker, Sir, there are always numerous project requests that come to the CEB on renewable energy and these are looked into. But only project proposals with technical and financial submissions are considered under the Public Procurement 2008 Regulations. I would ask the hon. Member, if he has any interest in any of the previous ones to declare it and I would also ask him to send me details of anything that he has in mind.

**Mr Lesjongard:** Mr Speaker, Sir, my question is: why is it that there is an ongoing open procurement process where the selected bidder has not even started discussions with the Central Electricity Board, but for an unsolicited bid which has been submitted about six months ago, discussions are ongoing, and is on the point of being finalised? *Pourquoi deux poids deux mesures?*

**The Deputy Prime Minister:** I repeat again, those that have come with technical and financial proposals are considered - according to the Public Procurement Regulations of 2008. And for the others they only have to submit and we will look at them.



**Mr Lesjongard:** One last question, Mr Speaker, Sir. My point is: we have a very transparent process for procurement in this country, we have voted legislation. Why is it that we do not use the proper channel to procure goods and services and we go ahead with unsolicited proposals, where such proposals have been submitted by promoters who are close to a Minister in the Government?

**The Deputy Prime Minister:** Mr Speaker, Sir, I will repeat what I have said: we are using the 2008 Regulations to look at proposals. I have asked the hon. Member and I will ask him again, if he has any interest in the previous ones to declare them.

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Jugnauth:** Can the hon. Deputy Prime Minister say whether the CEB has to date already issued a Letter of Intent to the company SARA KO PVP Co. Ltd?

**The Deputy Prime Minister:** The Letter of Intent was issued on 01 March 2013 with several conditions. Of course, in the end, the bottom line is to get an EIA License for the project; amongst others, there is a security of Rs15 m. to be provided and the obtention of land for the project.

**Mr Speaker:** Hon. Leader of the Opposition!

**Mr Ganoo:** I refer to the same company which has just been referred to. Is there a component of lease of land which is also in negotiation?

**The Deputy Prime Minister:** The rule for the lease of land is applicable to all the three projects.

**Mr Ganoo:** Where is the land situated, please?

**The Deputy Prime Minister:** Land identified at Bambous but is subject, as I said, to the obtaining of an EIA licence like for all the other projects.

**Mr Jugnauth:** The hon. Deputy Prime Minister is saying that with regard to the lease of land it applies to the other companies. Will he then confirm that the other companies are being given the same facilities, that is, Government land is being given on lease to the other companies which had bid in?

**The Deputy Prime Minister:** Yes, I confirm this.

**Mr Uteem:** May I ask the hon. Deputy Prime Minister what is the extent of the land that is being leased to those families and the amount paid as lease rental?

**The Deputy Prime Minister:** Let me give all of them. The first one is 40 hectares for Consortium Suzlon-Padgreen. The second one is 25 hectares to Aerowatt, the third one is 36 hectares Farm and the others for the 15 MW Solar PV Farm.

**Mr Bhagwan:** May I ask the hon. Deputy Prime Minister - without being personal - whether the families of the promoters or the promoter himself, has close relationship with one Minister in Government? If yes, whether the Minister has declared his interest to Government, to the Prime Minister while this file is being processed?

**The Deputy Prime Minister:** Emphatically yes.

**Mr Speaker:** Last question, hon. Lesjongard!

**Mr Lesjongard:** Before I put my question, on a Point of Order, I confirm that I don't have any interest with regard to any of the companies which have submitted offers at the Central Electricity Board.

I would request the hon. Deputy Prime Minister to withdraw what he has stated because it is tantamount to imputing motives, Mr Speaker, Sir.

**The Deputy Prime Minister:** May I?

*(Interruptions)*

**Mr Speaker:** Let me listen to the hon. Deputy Prime Minister.

**The Deputy Prime Minister:** I have not made any allegation. All I am saying is, state your position; you have stated it and I accept it.

**Mr Jugnauth:** For transparency sake, Mr Speaker, Sir, would the hon. Deputy Prime Minister then table to the House the letters that will afford the same facilities that he said in this House to the other companies, if he can table these facilities?

**The Deputy Prime Minister:** Yes.

**Mr Speaker:** Hon. Bhagwan!

**Mr Bhagwan:** I would like to know, when the hon. Deputy Prime Minister said 'Emphatically yes', whether he is confirming that one Minister of Government, family or the Deputy Prime Minister himself is party to that business, and whether that company has obtained 20 *arpents* at Bambous - crown land.

**The Deputy Prime Minister:** Mr Speaker, Sir, what I am saying is that he has declared his interest. Emphatically yes, he has declared his interest all along and has not been party to any discussion.

**Mr Speaker:** Last question, hon. Lesjongard!

**Mr Lesjongard:** Thank you, Mr Speaker, Sir. With regard to the price of purchase of kilowatt hour by the Central Electricity Board, can we know from the hon. Deputy Prime Minister what will be the

cost of kilowatt-hour being sold by SARA KO PVP Co. Ltd to the CEB and how does that compare with the lowest bidder with regard to the request of proposal that has been submitted recently to the Central Electricity Board?

**The Deputy Prime Minister:** Mr Speaker, Sir, the Curepipe Point Project which has been allocated is at ...

*(Interruptions)*

No, it has not been finalised yet. But, let me reply to part of your question. So far, the SARA KO purchase price is the lowest that we have at the market at the moment.

**Mr Speaker:** Now last question hon. Bhagwan in the name of public interest.

**Mr Bhagwan:** Would the Deputy Prime Minister confirm to the House that the special favour given to that SARA KO PVP Co. Ltd is part of the deal, of the conditions of the Minister concerned to cross the floor from the Opposition to Government.

**Mr Speaker:** Come on! This question is not in order.

*(Interruptions)*

Well I don't know if the hon. Deputy Prime Minister wants to answer, he may. Hon. Bhagwan, this is a joke.

**Mr Bhagwan:** The public wants to know.

**Mr Speaker:** No, no, no. Next question hon. Lesjongard!

#### **CEB - SMART METERING - IMPLEMENTATION**

**(No. B/79) Mr G. Lesjongard (Second Member for Port Louis North & Montagne Longue)** asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the project for the implementation of smart metering, he will, for the benefit of the House, obtain from the Central Electricity Board, information as to where matters stand, indicating if same will be extended to all electricity consumers.

**The Deputy Prime Minister:** Mr Speaker, Sir, I am informed by the Central Electricity Board that the smart metering project started in 2010 targeting the big industrial and commercial customers. As at February 2013, 3,400 meters have already been installed.

The CEB has already placed an order for an additional 5,000 meters which is expected to be delivered by April/May 2013. This will be followed by the procurement of an additional 1,000 meters.

The smart meters cost around five times more than the conventional meters. Presently, CEB has 412,000 customers including domestic, industrial and commercial. The CEB is targeting, in the first instance, the 45,000 big industrial and commercial customers who contribute to around 65% of its total revenue.

The installation of around 10,000 smart meters at the biggest customers will represent around 50% of CEB's total revenue base.

It is not contemplated, at present, to extend this facility to all domestic customers in view of the high investment cost in terms of the smart meters, and installation of the associated communication system, including the cost of software licences.

**Mr Lesjongard:** May I ask the hon. Deputy Prime Minister, with regard to the announcement made by the Minister of Finance in his Budget Speech, that some 10,000 such smart metres will be installed this year. Are we on target hon. Deputy Prime Minister?

**The Deputy Prime Minister:** Mr Speaker, Sir, one of the problems has been the availability of SIM card in the transmission system. I don't think we can absorb that many in a short time but it will be done as fast as we can accommodate them.

**Mr Lesjongard:** May I ask the hon. Deputy Prime Minister again with regard to smart metering but this time prepaid electricity meters for vulnerable families. May I know where we stand with regard to this project because it was announced that some 400 needy families will be supplied with such meters?

**The Deputy Prime Minister:** It is expected, Mr Speaker, Sir, that they will be installed before the end of June or July of this year. The problem has been with the technical side in getting the transmission and information system. This has been the main difficulty.

**Mr Lesjongard:** One last question because this was announced as a *mesure phare, M. le president, pour aider les plus démunis de notre société* and a memorandum of understanding was signed on 07 September 2012 with Mauritius Telecom and it has taken us more than six months to allow those families to benefit from those prepaid meters. This was a measure, like I said, announced by the Finance Minister. Do we have a problem between Ministries or maybe the Finance Minister is not getting proper care from the Government?

**The Deputy Prime Minister:** Mr Speaker, Sir, I have already replied to part of this question. I have informed the House of the technical difficulties arising from setting it up from the IT aspect; but they are being addressed and the IT system is now ready. Also, we have surveyed families. It's not all families who would like this system.

## HAJJ PILGRIMAGE 2013 - ORGANISATION

**(No. B/80) Mr A. Ameer Meea (First Member for Port Louis Maritime & Port Louis East)** asked the Minister of Arts and Culture whether, in regard to the Hajj pilgrimage 2013, he will, for the benefit of the House, obtain from the Islamic Cultural Centre, information as to if preparations for the organisation thereof have started.

**Mr Choonee:** Mr Speaker, Sir, I wish to inform the House that, further to a correspondence dated 28 February 2013 from the Islamic Cultural Centre regarding the organisation of Hajj 2013, I instructed the latter to initiate proper action. I have subsequently been informed by the ICC that actions have already been initiated to ensure that we are within the time frame for Hajj 2013.

**Mr Ameer Meea:** Mr Speaker, Sir, can I ask the hon. Minister whether this year the ICC will be responsible for the organisation of Hajj and also whether any private agencies will be responsible for the organisation and to deliver visas?

**Mr Choonee:** Mr Speaker, Sir, as in the past years, this year again, ICC will be responsible for the organisation of Hajj. For sure, there are no other private agencies that have been authorised from any quarters to organise Hajj and have the arrangement for visas - nobody else other than ICC.

**Mr Ameer Meea:** Can I make an appeal to the hon. Minister to see to it that the 700 persons who did not have a visa last year be placed on a priority list this year to make justice to them so that this year they perform their Hajj? We all know what happened last year; they were not granted a visa due to unforeseen circumstances.

**Mr Choonee:** As the hon. Member states, Mr Speaker, Sir, it was due to unforeseen circumstances that 700 of those who got registered couldn't go for Hajj. So this decision has already been taken. They are already on the priority list.

**Mr Ameer Meea:** As far as the 700 persons who did not have a visa is concerned, there was a Fact-Finding Committee that was chaired by Mr Ravin Chetty. Can I ask the hon. Minister where matters stand as regards this Fact-Finding Committee? Has the report been tabled yet?

**Mr Choonee:** Mr Speaker, Sir, I am not aware of this Fact-Finding Committee.

**Mr Ameer Meea:** It is in the papers and even the Chairman of ICC gave a...

*(Interruptions)*

**Mr Speaker:** Hon. Member, you have got an answer; I have no control on the answer. Next question!

**Mr Ameer Meea:** Mr Speaker, Sir, I have not yet finished. I am very surprised that he is not aware of the Fact-Finding Committee, but can I ask him if he is aware that a report was prepared by hon. Reza Issack and where matters stand in relation to that report? Has it been signed by the ICC and have any recommendations been put in place?

**Mr Choonee:** Mr Speaker, Sir, it's true that a report has been prepared by hon. Reza Issack, after the recommendations came from a Ministerial Committee chaired by the Deputy Prime Minister. The report was prepared, but we have two co-chairpersons for that particular Committee: Dr. Farhad Aumeer, the Chairman of ICC and hon. Reza Issack were to co-chair the committee. The report was prepared by hon. Issack but it was not signed by the Chairman of ICC. Ultimately, a notice was served to our good friend, hon. Reza Issack from the Chairman of ICC and following that notice, nothing evolved from there; nothing happened. It's *status quo*. I can't pre-empt what will happen, but I wish to inform the House that the organisation of Hajj is a very serious and complex matter.

**Mr Speaker:** Let us hear the question from hon. Soodhun.

**Mr Soodhun:** Mr Speaker, Sir, can the hon. Minister enlighten the House as to whether the ICC will be the sole Hajj Organiser?

**Mr Choonee:** The ICC Act says it and that's what the law says, Mr Speaker, Sir.

**Mr Soodhun:** I think the hon. Minister can look at it again, because, according to the Minister, we have no more private Hajj organiser. This is what he wanted to say.

*(Interruptions)*

**Mr Choonee:** As per the Act, it is the ICC that is the main body which organises Hajj as in the past years. So, it will go on the same way, except that we have a backlog that we are giving priority.

**Mr Speaker:** No, the question is about the exclusivity of the ICC to organise Hajj. This is the whole question.

**Mr Choonee:** ICC gives permission to Hajj organisers. They come in at a later stage, but ICC is the organisation that looks after visas, the pre-Hajj mission and all arrangements being made in Saudi Arabia, and then only we proceed further.

**Mr Uteem:** Mr Speaker, Sir, may I know from the hon. Minister whether, up to now, the Islamic Cultural Centre has launched any tenders for carriers and whether this would be an international tender or limited to airlines operating currently in Mauritius?

**Mr Choonee:** Mr Speaker, Sir, this will definitely be done, but it is too early to talk about carriers now.

**Mr Jugnauth:** Is the hon. Minister happy with the situation that he has just described that exists when hon. Reza Issack chaired that meeting and came up with a report co-chaired by Dr. Aumeer? Is he still happy with the state of affairs and, if he is not, what measures he intends to take in order to improve this situation?

**Mr Choonee:** Mr Speaker, Sir, do I give an opinion of mine, or I don't know. Is the hon. Member asking for an opinion?

**Mr Speaker:** The question is: are you happy with the present state of affairs?

**Mr Choonee:** Mr Speaker, Sir, I am happy, but we maintain that we always have room for improvement.

**Mr Speaker:** All right! Last question!

**Mr Ameer Meea:** Can I ask the hon. Minister...

*(Interruptions)*

If I can catch the attention of the hon. Minister!

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Ameer Meea:** Can we have an idea on the number of visas that would be put to the people who are planning to go to Hajj? Will it be in line with past years or will it be like last year's figure?

**Mr Choonee:** Mr Speaker, Sir, we have a firm commitment from the Saudi authorities that 1,300 Mauritians will be provided with visas to participate in Hajj and it goes on like that, it is 1,300. It is good that I inform the House that Dr. the hon. Abu Kasenally, the Minister of Housing and Lands and who is also the Minister responsible for Hajj matters yesterday submitted a letter from the Saudi authorities confirming that Mauritius will be authorised 1,300 visas for Hajj participation this year.

#### **MAURITIUS-INDIA DOUBLE TAXATION AVOIDANCE - INVESTMENTS**

**(No. B/81) Mr K. Li Kwong Wing (Second Member for Beau Bassin & Petite Rivière)** asked the Vice-Prime Minister, Minister of Finance and Economic Development whether, in regard to the Mauritius-India Double Taxation Avoidance (DTA), he will –

- (a) for the benefit of the House, obtain from the –
  - (i) Board of Investment, information as to the cumulative amount of investments made in India from Mauritius, since 1983 to December 2012, indicating the percentage of the total foreign investments made over that period, and

- (ii) Mauritius Revenue Authority, information as to the amount of corporate tax and registration duty paid respectively by global business entities in 2011 and 2012, indicating their respective share of the total income tax revenues and registration duties, and

- (b) state where matters stand in relation to the Mauritius-India DT

**The Vice-Prime Minister, Minister of Finance and Economic Development (Mr X. L. Duval):** Mr Speaker, Sir, as regards part (a)(i) of the question, the authoritative agency to provide information on cross border investments made into India from Mauritius is the Bank of Mauritius (BOM) rather than the Board of Investment.

I am informed by the Bank of Mauritius that the Foreign Direct Investment (FDI) data by geographical detail are available for 1990 onwards only. According to the Bank of Mauritius the cumulative FDI flows into India by entities, other than global business entities, between 1990 and 2012 amounted to Rs1.9 billion, representing 8.6% of cumulative total direct investments made overseas over that period. Concerning Global Business Companies (GBCs), data on their geographical investments are not maintained by the Bank of Mauritius.

However, according to official figures reported by the Ministry of Commerce and Industry of India, the cumulative FDI equity inflows into India from Mauritius for the period April 2000 to January 2013 amounted to USD 72 billion. This represents 38% of the cumulative amount of FDI equity inflows into India over that period.

Concerning part (a) (ii) of the question, I am informed by the Mauritius Revenue Authority that the amount of corporate tax received from global business companies is Rs2.3 billion for 2011 and Rs2.9 billion for 2012. The corporate tax from global business companies as a percentage of total income tax revenues, that is, both personal and corporate income tax, works out at 17% for 2011 and 20% for 2012, and as a percentage of total corporate tax revenues is 30% and 35% for 2011 and 2012 respectively.

Mr Speaker, Sir, I am informed by the Registrar-General that the Department does not maintain information by types of companies. As such, information on the amount of registration duty paid by Global Business Companies is not readily available. The Registrar-General has, however, informed that -

- (a) GBCs normally pay registration duty on the registration of loans and pledges documents, and
- (b) It is estimated that GBCs pay on average Rs3 m. per annum, representing 1.7% of the total annual registration duty collected by the Registrar- General's Department.



Regarding part (b) of the question, as the House is aware Mauritius signed the Double Taxation Avoidance Convention with India in August 1982 and the agreement came into force in June 1985. The Double Taxation Avoidance Convention is currently in force and effective.

Discussions to review certain aspects of the Double Taxation Avoidance Convention are however ongoing at the level of the Indo-Mauritius Joint Working Group (JWG). The Joint Working Group met in December 2011 in Mauritius, during which India proposed certain changes to the Double Taxation Avoidance Convention. Mauritius examined the Indian proposals and subsequently submitted counter-proposals thereon to India. The Mauritius counter-proposals were discussed during another meeting of the Joint Working Group held in August 2012 in Mauritius. At that meeting, agreement was reached on a text on tax information exchange, in replacement to the existing article on exchange of information in the Double Taxation Avoidance Convention.

Further discussions on the proposed changes to the Double Taxation Avoidance Convention took place in New Delhi on 04 and 05 April 2013. Discussions are still ongoing and another meeting of the Joint Working Group will be scheduled soon.

Mr Speaker, Sir, given the highly sensitive nature of the discussions on the DTAC, it would not be appropriate to disclose further details on this issue. However, we will ensure that at all times our interests are preserved and we are confident that we will be able to reach a win-win solution.

**Mr Li Kwong Wing:** We regularly find reports from India and Indian authorities of abuses of Double Taxation Treaty, especially abuses of round-tripping. Can the hon. Minister inform the House how many specific cases of round-tripping have been reported by Indian authorities to local authorities and which of these cases have been proven in our Courts?

**Mr Duval:** Mr Speaker, Sir, I would not venture any information on that, I am not sure. There have been cases mentioned, but to my recollection, no case has actually been proven in our Courts here, in Mauritius. Mr Speaker, Sir, furthermore, I would also inform the hon. Member that we have agreed a text on Tax Information Exchange Agreement with India and this text is ready, and is waiting for signature at the next convenient moment. As the Members are aware, we are one of the few countries that accept an Indian Revenue Authority Officer stationed here in order to insure transparency in our offshore financial services.

*At this stage the Deputy Speaker took the Chair.*

**GOVERNMENT PORTAL - CONTRACT**

**(No. B/82) Mr R. Uteem (Second Member for Port Louis South & Port Louis Central)** asked the Minister of Information and Communication Technology whether, in regard to the upgrading of the Government portal, he will, for the benefit of the House, obtain from the Government Online Centre, information as to the -

- (a) procurement method used for the award of the contract therefor;
- (b) name of the contractor therefor, and
- (c) contract value thereof.

**Mr Pillay Chedumbrum:** Mr Deputy Speaker, Sir, with regard to part (a) of the question, I am informed by the National Computer Board, that pursuant to Section 14(2) of the Public Procurement Act of 2006, an Open Advertised Bidding was launched on 09 March 2011 for the supply, installation, testing, and commissioning of a portal technology and infrastructure solution for the Government of Mauritius. The closing date was 04 May 2011.

Mr Deputy Speaker, Sir, following the recommendations of the Bid Evaluation Committee, the contract was awarded to the successful bidder, '*Formation, Recrutement et Conseil en Informatique*' (FRCI) on 03 October 2011.

As regards part (c) of the question, I am informed that the contract value is Rs49,990,643 inclusive of VAT.

**Mr Uteem:** Mr Deputy Speaker, Sir, may I know from the hon. Minister, out of this sum of Rs49 m., what is the portion which relates to licence fees payable to Microsoft and what is the fees payable for acquisition of hardware?

**Mr Pillay Chedumbrum:** Mr Deputy Speaker, Sir, I can give the hon. Member a breakdown of the cost of how we arrived at that figure. Is this what the hon. Member wants?

*(Interruptions)*

For hardware, Mr Deputy Speaker, Sir, we spent an amount of Rs8,985,660, for portal solution Rs9,818,964, for training Rs960,000, support Rs4,104,000, installation cost Rs19,601,500, and the sub total makes a total of Rs43,470,000. Now, with VAT inclusive it comes to Rs49,990,643.

**Mr Uteem:** May I know from the hon. Minister, being given the high amount being paid for portal solution for the software, was there any recommendation made by his officers that we use open source codes which are free instead of Microsoft SharePoint?

**Mr Pillay Chedumbrum:** Mr Deputy Speaker, Sir, the tender document for the implementation of the new Government portal was technologically neutral, that is, it did not favour one technology at the expense of the other like open source software, which our friend has just mentioned. Any bidder had also the possibility to propose the solution based on open source software. However, the most technical responsive and lowest evaluated bidder, that is, the FRCI proposed Microsoft SharePoint as solution and it is to be noted that as per Gartner, an international firm of benchmark repute, Microsoft SharePoint was considered to be the top most product, well ahead of open source software alternative. It is to be noted that open source costs nothing, but when urgent premium support is needed, it is not available or rarely available. Even if support may be available, it works out to be very expensive. *Finalemment, bon marché coûte cher !*

**Mr Seeruttun:** *M. le président, est ce que l'honorable ministre peut confirmer si ce nouveau portail est compatible avec les smartphones et tablettes, sachant très bien qu'aujourd'hui on a beaucoup plus de gens qui ont des tablettes et smartphones que des PC ou laptops?*

**Mr Pillay Chedumbrum:** Mr Deputy Speaker, Sir, I can assure the hon. Member that, in fact, all the necessary has been done to make it compatible with all devices that we may use.

**Mr Ameer Meea:** May I ask the hon. Minister whether this agreement was signed by his Ministry to Microsoft or was it signed by the Ministry of Finance and Economic Development as in the case of the agreement that was signed between Microsoft and the Ministry of Finance and Economic Development for an amount of Rs223 m. for supply and Windows and so on?

**Mr Pillay Chedumbrum:** When the successful bidder himself proposed Microsoft SharePoint as solution - it is not the Government - we have said that the implementation of the new Government portal was technologically neutral. It was that successful bidder who proposed that solution and one thing that we have to bear in mind is what is most important, what is best for the country. As I have just mentioned, Gartner considers it to be the top most product. So, we must be happy. He was the lowest bidder with Rs49,990,000 while the second one which comes after is around Rs110,000,000!

**Mr Uteem:** Mr Deputy Speaker, Sir, I can also cite many reports on the Internet criticising Microsoft SharePoint, but may I know from the hon. Minister whether the Rs50 m. include also maintenance and upgrade and the duration of these upgrades?

**Mr Pillay Chedumbrum:** Yes, Mr Deputy Speaker, Sir.

**Mr Seeruttun:** *M. le président, est-ce que le ministre pourrait confirmer si tous les moteurs de recherche seront adaptés à ce nouveau portail, ou bien est-ce que c'est limité à quelques moteurs de recherche?*

**Mr Pillay Chedumbrum:** *Non.* The National Computer Board has the responsibility to monitor the situation; the GOC has taken all appropriate steps to meet all requirements that may be needed.

**The Deputy Speaker:** Last question, hon. Uteem!

**Mr Uteem:** Mr Deputy Speaker, Sir, may I know from the hon. Minister who owns the domain name “gov.mu”?

**Mr Pillay Chedumbrum:** This is another issue which has nothing to do with that. If the hon. Member comes with a substantive question then we are going to answer it.

*(Interruptions)*

**The Deputy Speaker:** Next question, hon. Bhagwan!

#### **LES SALINES WATERFRONT DEVELOPMENT PROJECT - IMPLEMENTATION**

**(No. B/83) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière)** asked the Minister of Housing and Lands whether, in regard to the Les Salines Waterfront Development Project (*Neotown*), he will state where matters stand as to the implementation of the different components thereof, indicating if any –

- (a) revised implementation plan thereof has been submitted and, if so, when, and
- (b) plot of land allocated therefor has been subleased by the promoter thereof.

**Dr. Kasenally:** Mr Deputy Speaker, Sir, in my previous replies to Parliamentary Questions on this subject, I have already informed that the waterfront development project, due to its scope and magnitude, will be implemented in phases.

A recent site visit effected by the officers of my Ministry has revealed that the lessee namely, Les Salines Development Limited, is presently undertaking the infrastructural and landscaping works on the site. However, it has been observed that the works have slowed down.

The promoter has already been requested to expedite matters and to submit a project implementation schedule. I wish to point out that the project is being monitored by a Joint Monitoring Committee comprising representatives of my Ministry and other relevant authorities. Moreover, Government will not hesitate to apply the provisions of the Lease Agreement in case of breach of the conditions by the lessee.

As regards part (b) of the question, Mr Deputy Speaker, Sir, Article 7 of the Lease Agreement does not allow the promoter to transfer its rights in the lease unless it has the written approval of my Ministry and in compliance with the provisions of the Code Civil, Article 1778-5. To date, Mr Deputy

Speaker, Sir, no such application has been received from Les Salines Development Limited for the sublease of the land.

**Mr Bhagwan:** Mr Deputy Speaker, Sir, in his reply to PQ No. B/653 on 30 October 2012, the hon. Minister informed us that a site visit had revealed that on-site infrastructural works were progressing. I effected a visit a few days afterwards. The hon. Minister has just informed us that another site visit has been effected recently, and it appears that the work has slowed down. Would the hon. Minister be surprised that these on-site works are a *faire-semblant*? In fact, there is nothing happening there. They have only put hoardings just to show that they exist. In fact, this *Neotown* project *est un projet fantôme*.

**Dr. Kasenally:** I will not adopt such a pessimistic view. As the hon. Member may know the world is undergoing a downward dip concerning the financial and economic situations. There has been a total slow down, not only, in the United States, but also, in Europe. We know what has happened to Cyprus, but also, in the BRICS. Recently, they had a summit. You know what BRICS is? I think you know it; Brazil, Russia, India, China and South Africa. But, even there, they would not be able to come up to some very positive. They were supposed to have an Investment Bank, but this has been put under Court. So, we have to be a bit cautious, but however, my Ministry is watching it and we will not let that happen.

**Mr Bhagwan:** I know that the hon. Minister is closely monitoring the situation. Would the hon. Minister be surprised that when there was a PNQ, we drew the attention of Government that these Patel investors, were in fact - I measure what I am saying - international crooks, if I can say so. They informed Government that they have invested here and there, in Dubai, but in fact, they do not exist anywhere. They are corrupt people. So, will Government, in the light of what is happening - we can call it *projet fantôme* - consider retrieving the *patrimoine national*, that is, the precious lands which are worth millions in the port, but which have been given as jackpot to these Patel promoters.

**Mr Bhagwan:** I know that the hon. Minister is closely monitoring the situation. Would the hon. Minister be surprised that when there was a PNQ, we drew the attention of Government that these Patel investors, were in fact - I measure what I am saying - international crooks, if I can say so. They informed Government that they have invested here and there, in Dubai, but in fact, they do not exist anywhere. They are corrupt people. So, will Government, in the light of what is happening - we can call it *projet fantôme* - consider retrieving the *patrimoine national*, that is, the precious lands which are worth millions in the port, but which have been given as jackpot to these Patel promoters.

**Dr. Kasenally:** Mr Deputy Speaker, Sir, the word 'international crook' is a bit hard. I will ask my hon. colleague to measure a bit his statement. I wish to inform the hon. Member that I have also

checked and monitored it on the internet that they are having a fair number of projects, not only, in India, but also, in Africa. So, we are keeping a tab. We are opened to investment, but we will not let anybody take us for a ride. The hon. Member can rest assured.

**Mr Ganoo:** Can the hon. Minister inform the House whether – by virtue of the contract – a time frame has been given to those promoters? In what conditions can the land be retrieved from them?

**Dr. Kasenally:** There is a time frame, but recently, they also have been complaining. We have had problems about the harbour bridge, which has slowed down, but there is enough leeway and we shall not be waiting indefinitely. When the time comes, we will take the action that we need to take.

**Mr Jugnauth:** Can the hon. Minister say how much in monetary terms the promoters had invested so far in the infrastructural works that the hon. Minister has just mentioned?

**Dr. Kasenally:** Mr Deputy Speaker, Sir, I have not got the figures, but I will have to check it.

**Mr Bhagwan:** Can I ask the hon. Minister how much these promoters have paid to Government so far and whether they are acting within the law with their terms of payment which are supposed to be paid to the Ministry and to Government?

**Dr. Kasenally:** They have paid all their lease. It runs about Rs3 m. or something like that, but I will have to check it and give the exact figure.

**Mr Roopun:** I heard the hon. Minister stating there is a Joint Monitoring Committee. Can I know at what frequency the Joint Monitoring Committee meets? Who are the members? And when it last met?

**Dr. Kasenally:** In fact, we requested for a Joint Monitoring Committee at the beginning of this year, but they have asked for some delay because they have to get their team here. The members involved are the Prime Minister's Office, the Ministry of Finance, the BOI and my Ministry.

**Mr Baloomoody:** The hon. Minister just mentioned that his Ministry and other authorities are following the works done there. Can I ask the hon. Minister whether the RDA is involved in the digging which has been done because, according to my information, in the course of the recent flood, the work done was one of the cause of flooding in that region of Les Salines?

**Dr. Kasenally:** I have not got the last part of your question.

**The Deputy Speaker:** Would you like the hon. Member to repeat his question, hon. Minister?

**Mr Baloomoody:** The hon. Minister mentioned that his Ministry and other authorities are following constantly the works done there. I am asking the hon. Minister whether people from the

Ministry of Public Infrastructure are also following the works because, according to my information, following the recent flood, the digging which has been done there and left as it is, has been one of the additional cause of flooding in that region of Les Salines?

**Dr. Kasenally:** The Minister of Public Infrastructure is, in fact, involved with the Dream Bridge going over Les Salines. In this way, we have been involved in the acquisition – as you probably know – of properties in the region of your constituency. However, what the RDA has been done, they are not responsible to me. I am not capable, nor I think we can be sure that the work they undertake has been a cause or whatsoever. Unfortunately, Mr Deputy Speaker, Sir, there are so many experts in people giving so many ideas. That is why we are waiting for the true experts to give us the reasons of why these floods actually happened.

**Mr Barbier:** May I ask the hon. Minister whether the promoters have asked for some damages to be paid to them, due to some alteration in the project caused by the Dream Bridge Project?

**Dr. Kasenally:** No, Mr Deputy Speaker, Sir.

**Mr Bhagwan:** Can the hon. Minister inform the House whether the local representatives of these Patel investors have taken money *en vendant des rêves* - luxurious condominium complex, tourist village and other marine garden - and if the local representatives have been involved in the selling of these *projets de rêve aux Mauriciens* and whether the hon. Minister will conduct an inquiry at his level?

**Dr. Kasenally:** No, it is not to my knowledge or that of the Ministry or the Government or any local agents involved in the selling of properties to be built.

### **TOLL ROAD NETWORK PROJECT**

(No. B/84) **Mr K. Li Kwong Wing (Second Member for Beau Bassin & Petite Rivière)** asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to the implementation of the Toll Road Network Project, he will state where matters stand, indicating the -

- (a) scope of works therefor;
- (b) length of road involved;
- (c) total cost thereof;
- (d) share of private investment therein;
- (e) procurement method used therefor, and
- (f) toll rates required for the cost effectiveness thereof.

**The Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping (Mr A. Bachoo):** Mr Deputy Speaker, Sir, allow me to clarify at the very outset that there is no Toll Road Network *per se*. Tolling is one of the revenue streams for the Public and Private Partnership Project for the Design, Construction, Financing, Operation and Maintenance of a Road Decongestion Programme for the Road Development Authority of the Government of Mauritius. In accordance with the procedures laid down in the PPP manual, the project is still in the procurement phase, whereby a preferred bidder and a reserve bidder have been selected. As provided for, negotiations are underway between the preferred bidder and the Road Development Authority with a view to finalise the PPP Agreement. Thereafter, on the approval of the procedure require PPP Committee, the Central Procurement Board and Cabinet for an award to be made.

- (a) The scope of works as regards tolling before the private party in the PPP project to set up the necessary physical infrastructure and administrative process to collect tolls at various locations on a defined road network. The tolls collected will go towards part financing of the operation and maintenance of the roads within the network by the private party as well as repayment of debt during a concession period of 33 years after the signature of the Agreement.
- (b) 62 kilometres of dual carriageway are involved in sparing between Terre Rouge and Valentina.
- (c) The total capital investment to be incurred by the private party, covering the design and construction of the aforementioned road infrastructure and the provision of tolling infrastructure, will be around Rs30 billion.
- (d) The private party will provide 20% of the investment through their own equity funding and the remaining 80% will be provided through a Lending Special Purpose Vehicle set up by Government (Debt Funding).
- (e) The project is being procured under the Public Private Partnership Act 2004 and relevant provisions of the Public Procurement Act 2006.

The average toll rate as per feasibility study is Rs2.60 per kilometre. As an agreement is yet to be finalised to the preferred bidder, the rate proposed by the bidder cannot be disclosed at this stage.



**Mr Li Kwong Wing:** The Minister said that the total cost of the project will be Rs30 billion, of which the private investor will contribute 20%. The private investor is, in fact, Colas/Bouygues, who is the preferred bidder, and we already know that in the case of Terre Rouge/Verdun project, Colas/Bouygues has asked for a claim of Rs709 m. on a project of Rs2.2 billion, that is, for a cost overrun of 30%. Given that this is a project of Rs30 billion and Colas has a track record to claim for lost overrun of 30%, while it is contributing only 20%, is it not a case where Colas will not be putting any money?

**Mr Bachoo:** Mr Deputy Speaker, Sir, it is a fact that Colas, for the Terre Rouge-Verdun, has made a very excessive claim – the sky high appears to be the limit. But, in fact, let me inform the hon. Member that we have not accepted the claim of Colas up till now. The consultants as well as my Engineers are working on that. That is one issue. But if a separate question is asked to me on that issue, I am definitely going to answer as to how much of money RDA is willing to pay. But, here also, since the award has not been made, I would request the hon. Member, at least, to bear with us because I don't have any control over who is going to get the award. That is very difficult for me at this stage to say.

**Mr Ganoo:** The question is who is going to get the contract although the preferred bidder has not been chosen as yet. In a PPP project, the promoters or the private sector come with their money; then they start building, and afterwards they rent the construction for a period of 20 or 25 years. But, in this case, doesn't the Minister agree that this defies the whole concept of PPP, when private sector is chipping in only 20% and Government is putting 80%? Can the hon. Minister tell us who came up with this *montage financier* with the promoters bringing in only 20%?

**Mr Bachoo:** In fact, this was the decision taken by the Government. At least, they are providing 20% of the investment with their own funds, but at the same time we are providing them the remaining 80% through lending special purpose vehicle, that is, definitely we are taking from the market and we are supposed to be lending to them at a rate which they are bound to pay to us, and this has been done with a view to facilitate such a project. If they had gone on their own, probably they would not have received that much of money. Keeping that in mind, probably a few years back decision was taken by the Government that we have to come forward with this lending business.

**Mr Ganoo:** Is it also the case that they will collect the toll afterwards?

**Mr Bachoo:** No, the collection of the toll will be their responsibility, but Government will definitely have a supervisory power over that.

**Mr Ameer Meea:** Mr Deputy Speaker, Sir, the hon. Minister just informed the House that there was a preferred bidder. Can I ask the hon. Minister how this bidder was preferred?

**Mr Bachoo:** I don't want to go into the intricacy because this is a PPP project. To be very honest, I am not involved in the selection of the preferred bidder, but I am told there is a preferred bidder, there is a reserve bidder, and negotiations are on. This question of negotiation between the different groups who are involved into that has taken almost two years. Once the award is made, I will be in a position, and then Cabinet will have to take a decision on that. We have not yet taken a decision.

**The Deputy Speaker:** Last question hon. Li Kwong Wing. Last question! Time is up!

*(Interruptions)*

**Mr Li Kwong Wing:** But it is an important subject, Mr Deputy Speaker, Sir.

**The Deputy Speaker:** Time is up since three minutes now. Hon. Li Kwong Wing, please!

**Mr Li Kwong Wing:** Mr Deputy Speaker, Sir, since Government is contributing 80% of the Rs30 billion, that is, Rs24 m., what is the expected rate of return that Government is estimating from this project? Therefore, based on this estimated rate of return, what will be the toll rate that is going to be charged to the public and, if that toll revenue will not be able to yield that rate of return, will Government be giving a sovereign guarantee for the toll revenues that will guarantee that rate of return?

**Mr Bachoo:** Mr Deputy Speaker, Sir, this is a project of national importance. We are not telling that Government is going to contribute 80%. I have just mentioned that Government is going to advance them loan to the tune of 80%, that is, the loan which we are giving to them. Secondly, with regard to the issue of the toll, this has been calculated by the consultants. I would only request the hon. Member to bear with us. Let the award be made, and I will be in a position to state.

**The Deputy Speaker:** I'll allow a final question to the hon. Leader of the Opposition.

**Mr Ganoo:** Can the hon. Vice-Prime Minister indicate to the House whether, in this very case, the other bidder has appealed to the Independent Review Panel against Colas, and the RDA, which has been made a party before the IRP, has refused to submit itself to the jurisdiction of Independent Review Panel because the law has been changed last year to enable the RDA not to be answerable to the IRP?

**Mr Bachoo:** Mr Deputy Speaker, Sir, I would sincerely expect the hon. Member to come with a substantive question to provide all the detailed answer.

*(Interruptions)*

Having said that, I would say the reason why the IRP rejected the request of the other bidder. The reason is simple: according to our law - the law has not been changed -...

*(Interruptions)*

Let me complete! According to the law, the award has to be made. When the award is made, then you are given so many days to appeal to the IRP. But what have they done? Before the award was made - the award had not yet been made; negotiations were still on - they went to IRP. Hence, the RDA rightly had to object because we have not given the offer; we have not gone to the Policy Planning Office; we have not gone to Cabinet, and award has not been made. All of a sudden, they have already started challenging. I can't read the mind of IRP, but I know IRP rejected it. So, once the award is made, they have got the full right to go to IRP, and then IRP will have to take a decision.

#### **LIQUID NATURAL GAS (LNG) SYSTEM – SETTING UP**

**(No. B/85) Mr D. Nagalingum (Second Member for Stanley and Rose Hill)** asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the proposed setting up of a Liquid Natural Gas (LNG) System, he will state if a feasibility study has been carried out to assess the practicability thereof and the proposed location of the infrastructure that will have to be put in place in relation therefor.

*(Withdrawn)*

#### **NHDC HOUSING ESTATES – WATER SUPPLY**

**(No. B/86) Mr D. Nagalingum (Second Member for Stanley & Rose Hill)** asked the Minister of Housing and Lands whether, in regard to the projects for the rehabilitation of water supply of the NHDC Housing Estates, including the re-installation of new water pipes, water tanks and water pumps, he will, for the benefit of the House, obtain from the National Housing Development Company Ltd., information as to where matters stand.

*(Withdrawn)*

**The Deputy Speaker:** The Table has been advised that PQ Nos. B/91, No. B/93 and No. B/94 have been withdrawn. Time is up!

**MOTION**

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

**The Deputy Prime Minister:** Mr Deputy Speaker, Sir, 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 Finance and Economic Development (Mr X. L. Duval)** rose and seconded.

*Question put and agreed to.*

## STATEMENTS BY MINISTERS

### MITD - FACT FINDING COMMITTEE

**The Minister of Education and Human Resources (Dr. V. Bunwaree):** Mr Deputy Speaker Sir, with your permission, I wish to make a statement to inform the House of the main findings and recommendations of the Fact Finding Committee set up by Government under the chair of Mrs Veronique Kwok Yin Siong Yen, Presiding Magistrate, Intermediate Court (Criminal), to look into the case of the alleged abuse of a minor student, V.A., of the MITD, by an Instructor, N.C, then employed by the Institute.

As the House is aware, I made a statement on Tuesday 20 November 2012 about the setting up of a Fact Finding Committee, to be presided over by a Senior Magistrate, to look into this case of alleged abuse, which was the subject of a Private Notice Question by the hon. Leader of the Opposition on Saturday 17 November 2012.

The Fact Finding Committee, which was mandated to carry out an in-depth enquiry into the case of alleged abuse and to make recommendations on actions to be taken, started its assignment in January 2013, and has submitted its Report on Friday 29 March 2013.

In the context of its assignment, the Fact Finding Committee had, on 08 January 2013, issued a press communiqué to invite members of the public at large to provide information and/or to give evidence before the Committee.

The Fact Finding Committee heard 28 witnesses between 12 February and 15 March 2013, and examined documents and exhibits produced.

Mr Deputy Speaker, Sir, the main findings and recommendations of the Fact Finding Committee are as follows –

- (a) None of the 28 witnesses, who deponed during the hearing, came forward to say that they had seen Instructor N.C and Minor V.A together involved in an inappropriate behaviour.
- (b) No independent evidence has been adduced to support the allegation of abuse. The then owner of the “*pensionat*” where the acts were alleged to have taken place, had declared that the “*auberge*” had already ceased operation a few years ago.

*(Interruptions)*

*Respectez, ena enn tifi ladan!'*

- (c) In view of the Medico-legal Report submitted to the Fact-Finding Committee, it has been found by the Committee that the issue of sexual intercourse between Instructor N. C. and

minor V. A. cannot stand. According to this Medico-legal Report, the examination of the minor on 25 February 2013 has revealed that there could not have been any sexual intercourse upon her in view of the intact genital conditions. The Fact-Finding Committee finds that this medical evidence is crucial to put an end to speculations.

Mr Deputy Speaker, Sir, the Report further points out that failure to manage the problem efficiently by the authorities, led some of the persons who deponed before the Fact-Finding Committee and the public at large, in view of wide media coverage in the country, to believe that there was cover-up.

The Fact-Finding Committee made the following recommendations on actions to be taken as follows -

- (i) Police should act promptly upon receipt of a complaint, especially when a child is involved in order to reinforce public confidence.
- (ii) To protect children from being exposed to harm, staff of a school or a medical or a paramedical staff must notify the Permanent Secretary of the Ministry of Gender Equality, Child Development and Family Welfare as per section 11 of the Child Protection Act.
- (iii) The Ministry of Gender Equality, Child Development and Family Welfare should communicate more with other institutions and improve its standard practice with regard to provision of information.
- (iv) In light of the information to be obtained from telecommunication service providers as per section 32 of the Information and Communication Technology Act 2001, the Police should pursue its enquiry and refer the matter to the Director of Public Prosecutions for any further action.

Mr Deputy Speaker, Sir, it is being proposed to institute a high level Inter-Ministerial Committee to look into the implementations of the recommendations of the Fact-Finding Committee, including the need to revisit the law and current administrative procedures relating to such alleged cases including minors, procedures used by the Police, by the Ministry of Gender Equality, Child Development and Family Welfare and the Child Development Unit.

Thank you, Mr Deputy Speaker, Sir.

*(Interruptions)*

**The Deputy Speaker:** Silence, please!

*(Interruptions)*

Hon. Ms Deerpalsing!

*(Interruptions)*

Order! Order, please! Hon. Ms Deerpalsing! Please, remain silent now!

*(Interruptions)*

Hon. Minister, you have got a statement to make, please!

*(Interruptions)*

Order! Order! Order, please!

*(Interruptions)*

I said, Order!

*(Interruptions)*

Hon. Minister, go ahead with your statement! I want order in the House! Hon. Ms Deerpalsing, stop! Enough now! Allow the hon. Minister to make her statement!

(4.34 p.m.)

#### **GRNW RESIDENTIAL CARE/DROP-IN-CENTRE**

**The Minister of Gender Equality, Child Development and Family Welfare (Mrs M. Martin):** Mr Deputy Speaker, Sir, in respect to my reply to PQ No. B/25 on minors at the Brown Seaward Mental Health Care Centre made on Tuesday 26 March 2013, I informed the hon. Members that my Ministry had found an organisation to manage the Residential Care/Drop-in-Centre at Grand River North West designed for Commercial Sexual Exploitation of Children (CSEC).

In fact, following tender exercise, managers have been identified for three new shelters...

*(Interruptions)*

**The Deputy Speaker:** Order!

*(Interruptions)*

I want order in the House! Order! Order!

*(Interruptions)*

Hon. Minister, please go ahead!

*(Interruptions)*

Hon. Ms Deerpalsing, it is enough now! I am warning you!

*(Interruptions)*

Enough of it, I said!

**Mrs Martin:** ...managers have been identified for three new shelters at Floreal, Curepipe and Belle Rose.

*(Interruptions)*

**The Deputy Speaker:** Let the hon. Minister continue with her statement!

**Mrs Martin:** As regards the Residential Care/Drop-in-Centre at Grand River North West, tenders at local and international levels have been launched on 08 March 2013 for the management of the Centre and the closing date is 22 April 2013.

**The Deputy Speaker:** I suspend the sitting for half an hour for tea!

*At 4.46 p.m. the sitting was suspended.*

*On resuming at 5.34 p.m. with Mr Speaker in the Chair.*

## **PUBLIC BILLS**

### *First Reading*

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

- (a) The Banking (Amendment) Bill (No. II of 2013)
- (b) The Mauritius Society for the Prevention of Cruelty to Animals (Temporary Provisions) Bill (No. III of 2013)

### *Second Reading*

#### **(i) THE EMPLOYMENT RELATIONS (AMENDMENT) BILL**

**(NO. XXXI OF 2012)**

#### **(ii) THE EMPLOYMENT RIGHTS (AMENDMENT) BILL**

**(NO. XXXII OF 2012)**

*Order read for resuming adjourned debate on the Employment Relations (Amendment) Bill (No. XXXI of 2012) and the Employment Rights (Amendment) Bill (No. XXXII of 2012).*

*Question again proposed.*



(5.35 p.m.)

**Mr S. Soodhun (Second Member for La Caverne & Phoenix):** Mr Speaker, Sir, I think that I am going to speak on behalf of the Opposition and also various workers outside.

Mr Speaker, Sir, first of all, this afternoon, I stand up for the second time for the same Bill; first in 2008 and second today. In fact, Mr Speaker, Sir, most of the hon. Members will agree with me that these two Bills, the way they have been processed, have created a lot of confusion. In fact, I am, in this august Assembly, for nearly more than twenty years and I have never witnessed that for a Bill presented by any hon. Minister, after its Second Reading, a long list of amendments is circulated. I don't know whether the hon. Minister will again have a Second Reading. In fact, it was not one or two amendments which could be taken at Committee Stage. Rather, there are amendments on amendments confusing everybody. I am quite sure the hon. Minister himself is confused. The fact that there is a lot of contradictions between the amendments, the other amendments, the third amendments and the fourth amendments, which have been brought in December last, this has created a catastrophe.

Mr Speaker, Sir, I don't think many hon. Members in this House have had the opportunity to serve workers of this country as a trade unionist. Hon. Paul Bérenger and I are two in this august Assembly who have been related with the working class. This does not mean that other hon. Members do not understand. It concerns me. I have been working for more than 20 years with the trade union movements and I have been very close to the working class of this country. You have been the Minister of Labour in the past. In fact, Mr Speaker, Sir, I have had the opportunity to serve the workers in this country and also, as a hon. Minister, to defend the interests of the workers which I am really honoured to. I fully understand the situation of the workers. I have witnessed and gone through hunger strikes many times. I have even been in prison.

*(Interruptions)*

This is a fact. I want to show that I am not a person who is going to speak only for the sake of a speech, Mr Speaker, Sir. I am speaking on facts and experiences that I personally had. I have been in the trade union movement since nearly the age of 18 and today I am nearly 60.

*(Interruptions)*

**Mr Speaker:** No interruptions!

**Mr Soodhun:** Mr Speaker, Sir, I can say that for nearly a quarter of a century I have been fighting against the Industrial Relations Act 1973 and the Labour Act. My family and I have suffered a lot as well as the working class of this country. Today, let me remind the hon. Members that in 1980s, I have

been a trade union leader and, as I mentioned, I have been together with the workers. Today, I would like to pay tribute to *ce grand homme, grand syndicaliste, grand défenseur de la classe des travailleurs, l'honorable Paul Raymond Bérenger.*

*(Interruptions)*

**Mr Speaker:** Don't interrupt!

**Mr Soodhun:** Mr Speaker, Sir, it is a very serious piece of legislation. I make an appeal to my hon. colleagues that they have to, at least, listen because I don't disturb anybody. This is very important, Sir. I say that because it is no secret that I was inspired by people like Manilall Doctor, Guy Rozemont, Maurice Curé, Adolphe de Plevitz, Emmanuel Anquetil, Hariparsad Ramnarain, Chand Bhageerutty, Sharma Jugdambi and our good friend, hon. Paul Raymond Bérenger, as a trade union leader. This is not a secret.

Today, Mr Speaker, Sir, we cannot compare the Labour Party of 1950s with the Labour Party of today. It is totally different. There is a complete difference. The latter has betrayed the legacy and the fight that some of their founders have so strongly supported. Today, I would like to pay tribute to all the people I mentioned for their contribution to the fight in favour of the working class in this country.

In fact, Mr Speaker, Sir, I had to take a decision in 2000 as a Minister. Today, we are discussing this Bill. Since 2008, the former Minister of Labour brought the amendment to the Freedom of Association of 1987. Let me remind hon. Members that the then Government, between 2002 and 2005, requested me as the then Minister of Labour and Industrial Relations, to ratify the Convention of Freedom of Association. It is a fact that when we ratified the Convention, there was a time bar given by the ILO to amend the existing laws, that is, the Industrial Relations Act of 1973 and the Labour Act of 1975. It was a must. As I have just mentioned, I have been with the working class since I was very young. So, when I was the Minister of Labour, the first opportunity I got, I ratified the Convention. This is why today we are bound to amend the Industrial Relations Act because I have ratified the Convention at ILO level. Many people are not aware of it.

Today, we are having this debate and I am glad to participate. But, unfortunately, the way the debate is going on and amendments are being brought, I was of the opinion that my friend, the hon. Minister of Labour, would have a workshop, have discussions with all the trade unions. Forget who is the leader of the trade union! Let's have a workshop with the Ministry, the ILO expert from the Department of Freedom of Association - there is a legal department, as we all know, Mr Speaker, Sir - the trade unions and the employers. This is the way it should have proceeded because we are amending a law

which existed since 1975. This law will remain, as the hon. Minister rightly mentioned, for future decades.

This is why it is very important that we get all the people on board and the opinion of all the people. It does not matter whether it is accepted or not but, at least, to have discussions with these representatives, listen to them, as the hon. Minister rightly listened to a few trade unions leaders, and they submitted some suggestions which the Minister has taken on board. It is good. Even I have worked out a White Paper and there are some points which the hon. Minister has taken on board. That's good. But, at least, we should have avoided what is happening out there today. It does not please anybody, be it the Opposition, the Government, the trade unions or the employers. I have never said that I am in favour of some sort of gathering. We are living in a democratic country.

*(Interruptions)*

**Mr Speaker:** Carry on!

*(Interruptions)*

**Mr Soodhun:** Listen!

**Mr Speaker:** Carry on! I am listening to the hon. Member.

**Mr Soodhun:** Mr Speaker, Sir, maybe the hon. Minister has good intention. I have no doubt about it. There will be some sort of outcome later on in my speech, a blame for the former Minister. So, what I would suggest is for the Government to have a *table ronde*, bringing all the people around the table to have discussions. Again, I would have advised the hon. Minister to do that. As I mentioned, this law is not for one, two or 10 years. It is for the coming decades.

Mr Speaker, Sir, really we are disappointed with the way it has been done because he could have done better than what he is proposing today. As I mentioned, when I was Minister I had the opportunity to rectify five Conventions and, in 1998, the first time, as Member of the Parliament with the collaboration of ILO, I introduced the first Welfare Fund namely EPZ Welfare Fund but without the collaboration of the then Minister, it would not have been possible. This goes in the right direction. I have to thank hon. Mrs Bappoo, she collaborated, she helped a lot to bring this piece of law.

In 2008, when the former Minister came forward with the amendment on the two Bills - first time in the history of this Parliament, Members of the Opposition brought twenty eight amendments - it is not easy - without any technician. I am not a legal man. I have been a trade unionist but to come with twenty eight amendments, I am sure, my good friend, the Attorney General will agree with me, it is not easy. I brought twenty eight amendments and if the former Minister had listened and taken note of what I

suggested, we could have saved today, Sir, nearly 20,000 jobs – it is a pity due to the law passed in 2008. This is why I say it does not make us happy that people outside are telling the Minister is an anti-worker, that is, *anti travailleur* by the trade unionists, not me telling that. That does not make us happy, but they also wonder whether the Minister has a hidden agenda. God knows. I think the trade unionists know what they are telling.

Sir, four years back we were debating on the Employers Rights Act and the Employment Relations Act. It is again a sad day in the history of our nation and this shows us how this Labour Party has nothing in common in the 1950s one. It is an insult to the late Emmanuel Anquetil, Dr. Maurice Curé and others who lost their lives so that the workers be given due respect through their efforts. Indeed the ultra liberalists had control on the so badly called *Alliance sociale*. Mr Speaker, Sir, I could have given some credit to the present Minister of Labour when I heard that amendments in these two legislations were circulated. I thought there is something coming for the benefit of the workers in general. *Je me suis dit qu'enfin il a eu un peu de courage mais toutefois c'est faux pas. Un pas en arrière pour les travailleurs de ce pays. Est-ce cela la récompense envers les bâtisseurs de notre nation? Non!*

Mr Speaker, Sir, the proposed amendments show clearly that it is another step by this Government to implement a pro-employer agenda. These two labour legislation have created much harm to the Mauritian family and will go to create a lot.

Mr Speaker, Sir, the amendment proposed is fundamentally based on the whole concept of divide and rule and we have seen since some months how the Minister reacted towards some trade unions. The Government had to backpedal with the amendments proposed last December. They, themselves, are not sure what they are doing. Call the expert of ILO. Call other people. We have people. We may not have experts in other fields, but in the labour laws we do have experts.

*Donc une fois de plus l'histoire marquera que la lutte syndicale a encore triomphé par certaines propositions.* As mentioned, there are some propositions that the Minister has taken on board. I don't understand why the Minister of Labour refused to discuss with certain trade union/federation? I cannot understand. We know that, in the same Government, people try to bypass the Minister and give a special treatment. We know that. I would ask the Minister, for the sake of the workers, to forget the internal or individual problems of human beings. This happens. I, myself, have been Minister, I had to face the problem. You know it very well, but we have to forget it. *C'est l'intérêt commun qu'il faut voir, ce n'est pas l'intérêt individuel.*

The Minister should not forget that, without the contribution of the workers, a nation cannot be built. This is why we should consider that trade unionists and employers federations as social partners.

Always we need this boss. I am not against the employer. I am the first one to consider both the request of the employer and that of the working class so that we can judge. When you are in Government then you have to judge and act in the interest of the country. They said that they are a socialist Government but these legal provisions show clearly that they are here *pour défendre le patronat et le gros capital. Ce gouvernement restera dans l'histoire comme celui qui a voulu la fin du mouvement syndical* with this amendment. When you go deeper in this amendment then you will see that the trade unions *sont en train de perdre leurs droits acquis*. It will happen that in ten, fifteen or fifty years, the trade unions will face extinction. We will be left with one or two trade unions which have been formed by the employer - judge and party as if the prison officers are going to have a trade union movement and will have the Commissioner of Police to be the negotiator. *Ce n'est pas étonnant quand nous savons qu'il y a certains qu'on considère comme antidémocrates quand on vient avec cette loi*. The amendments proposed were based on the Machiavelli strategy to create division. The employers would have a complete control on a group of workers if finally we vote this law.

Moreover, the amendments proposed for the unrecognition is an attempt to weaken and get rid of the trade unions. I'll explain, Mr Speaker, Sir. The previous amendment of 2008-2009 - I will not go into the detail of the clauses but, for the Joint Recognition Panel, there was a provision of 30% to 50% of members. Above 50%, the trade unions get sole recognition whereas with the new one it has been increased from 30% to 35% and from 50% to 70%. For sole recognition, they need 70%. What will happen, Sir, if the employer imposes to a new employee a contract that interdicts him to form part of the trade unions? We all know that due to the present unemployment situation, some people may accept some imposed and unfair conditions of service. *Les chômeurs sont dans une situation vulnérable et le gouvernement ne fait rien qui puisse protéger ce qui freine l'emploi*.

*M. le président, dorénavant, nous verrons des contrats de travail consistant à interdire un nouvel employé à se syndiquer*. This will be very sad and we cannot endorse all these clauses. The amendment proposed by the Government to the Employment Rights Act 2008 is an admission that the workers, the trade unions and the Opposition were right to oppose the legislation which was clearly against the interests of the workers. While the amendments proposed to the Employment Rights Act in 2008 is a major setback to industrial democracy as it aims to weaken the trade union's movement and is inconsistent with the development of the collective bargaining and the goal of social dialogue which is a pillar...

**Mr Speaker:** I am sorry, I have to interrupt you. We are not debating the 2008 Employment Rights or Employment Relations Act. We have amendments proposed before this House. You have

spoken enough, I have listened to you, I have been lenient to you. I want to hear you now on the amendments.

**Mr Soodhun:** Mr Speaker, Sir, I am not against your ruling, with due respect that I have for you. In fact, why do we refer to 2008? Because the first amendment of the Industrial Relations Act was proposed in 2008 and then the Minister came for the amendment in 2008.

**Mr Speaker:** In 2008....

**Mr Soodhun:** Yes, this was coming with another amendment in December. I have to refer to it. In fact, I am going to say that the Act of 2008 was good in certain clauses. If I do not mention, I would not be able to do that, Mr Speaker, Sir, with due respect that I have for you.

So, Mr Speaker, Sir, there is one thing that I would just want to quote. Mr Speaker, Sir, the House will recall that during the debate on the introduction of the Employment Rights Act I made proposal to introduce concept of reinstatement in case of termination for economic reasons where workers were victimised by their employers and to reintroduce the TCSB. Honestly, Mr Speaker, Sir, I had some expectations that the Government would amend the law and bring a better compensation in case of termination of employment. It should be the same as it was in the formal Employment Rights Act. As you are well aware, Mr Speaker, Sir, today in many cases, we do not have normal rate and we do not have six times the normal rate in case of unjustified dismissal. So, this also is a handicap for the workers today in case they terminate the contract on unjustified dismissal.

Mr Speaker, Sir, let me come now to the right to strike which is very important. It has been since long one of the fundamental rights of our democracy towards workers. There have not been any trade union leaders from our biggest trade union leaders and politicians of this country through fault. The strike is the last resort of trade union for the workers. Mr Speaker, Sir, I just mentioned section 9 where the Minister is repealing the subsection (2) of the Employment Rights Act which reads, I quote –

“No worker shall cease to be in the continuous employment of an employer for reason of his participation for a first time in a strike which is unlawful under the Employment Relations Act 2008”.

This is where I say that I agree with what the former Minister brought. I congratulate him for that. I agree with him. Today, Mr Speaker, Sir, repealing this section will leave a room for employers to hire and fire. Legal procedures to recourse to a strike are more and more lengthy and this amendment is making it more difficult for workers to organise themselves. Nobody, Mr Speaker, Sir, wants to go on strike, not even the workers of trade unions nor the employers, definitely, nor the Minister. As I said, I have to give credit to the Minister who provided that no punitive action be taken against a worker who participated in a strike

for the first time. However, this amendment proposed today is a back step in our democracy. So, instead of moving forward, this Government is moving backward – *comma dir kamaron*, you know *kamaron* does not go forward, but backward. Mr Speaker, Sir, *c'est une insulte à la lutte pour les travailleurs de ce pays*.

Mr Speaker, Sir, section 77 of the Employment Rights Bill is empowering the employers. This provision is the end of the right of strike. The amendment proposed that no recourse to strike or right to strike exists in a collective agreement or an award relating to wages and conditions of employment is in force. I would like to know what will happen in case of termination of contract of a group of workers, will there be a right of strike? Mr Speaker, Sir, the new amendment proposed on Friday last is another gift for the *gros patron* in the sugar industry, in the port, even in the transport. I take the words of the Minister, in his speech, he mentioned he is not *zom patron*, he is *zom his madam*. I congratulate him. He considers now bringing this amendment, he is *zom certains patrons*, *certain patrons* in the sugar industry, in the port, in the transport. So, Mr Speaker, Sir, I, myself, *je dis que je suis complètement bouleversé*. What will happen, Mr Speaker, Sir? Let us say, if tomorrow, there is a negotiation carried out between the employer and the trade unions. There are ten points. On seven points there has been an agreement and what happens if we take into consideration that an employer has no reason to resolve the other three points because the worker will have no issue. Tomorrow there can be a negotiation going on, a collective agreement between the employer and the trade union, a negotiation is going on, there are 20 points, 15 points have been agreed, five points have not been agreed. So, five items remain. What happens? This will not refer to any institution to see what we can do with the five items and this will remain for 24 months, you are not allowed even to go and negotiate, this will be sent to another institution as it has been done in the past.

Let me take an example which is very easy for people to understand. Once you cannot refer to the institution, you cannot negotiate. Let us say that you agree, and there has been an agreement on 20 points, but in the course of the year, maybe some conditions will change. The workers' conditions are changed, or something crops up. So, then, what will happen? You cannot do anything, and you have to wait. This is what we are suggesting because there are some *méchants patrons*. What can we do? The hon. Minister knows better than any hon. Member here.

*(Interruptions)*

He himself stated in this august Assembly that we have some unscrupulous employers. What will happen? The hon. Minister has mentioned that, since 2008-2009 till today, for the first time there is a provision that they can go for a strike. Can anybody in the House tell me that we have witnessed one illegal strike? No! Not at all!

(Interruptions)

*Menace!* What I am just proving is that this is something we will never accept - the Opposition, and even some hon. Members in the Government. If you are going to talk individually, they will say “yes, you are right.” That cannot just scrap, just *enlever le droit acquis depuis des siècles et des siècles*. We are fighting that the workers can go on strike, but *on a des garde-fous*. We cannot! It is impossible to accept it! I can cry when I think that tomorrow we are going to take out this clause.

(Interruptions)

This is because you have never been to the workers. I have been to the workers and seen how they suffer.

(Interruptions)

*Ki ena pou dire ! Ou pas ti la, mone fek dire li. Mone fek dire oune aide nou dans 88. Mone dire li sa.*

**Mr Speaker:** Address the Chair, please!

**Mr Soodhun:** *M. le président*, I mentioned that the hon. Minister is bringing a few amendments, which are positive - the suggestions that have been made by the trade unions and me. But now, Mr Speaker, Sir, we come to the amendment to section 78 concerning the ballot, where the Supervising Officer will replace a Conciliation and Mediation Commission. This is, according to me, an attempt to the impartiality of the procedure for a strike. The Conciliation and Mediation Commission is an independent Body. We cannot give the power to the Permanent Secretary. The Permanent Secretary cannot be the judge. He is a good friend of mine. He is a very good Permanent Secretary. All the Permanent Secretaries are very good. But, you cannot give them that. I have been Minister, and you are Minister.

(Interruptions)

Can you tell me if a Permanent Secretary will refuse to listen to the Minister? Will he say “I am not going to obey your instruction”? *Transfer mo croire dans 24 heures ou bisin ale on retirement prématuré!* What I am telling you is that this also I think is *un faux pas*.

Mr Speaker, Sir, let me tell you what the Committee on Freedom of Association of ILO has pointed out. I quote –

“The Committee has maintained that –

Respect for the principle of freedom of association requires that the workers should not be dismissed or refused to re-employment on account of their having participated in a strike or other industrial action.”



My hon. friend knows it very well. I have no doubt, Mr Speaker, Sir.

Mr Speaker, Sir, as I mentioned, this Government pretends to be a socialist Government, but they are empowering the pro-capitalism sector since 2005. The two labour legislations are only two steps in the conclusion of the economic and political strategy. Today is another enforcement of these fine-tuned methods by the *ultralibéralisme* of the other side of the House.

Mr Speaker, Sir, with regard to the allowance, the intention is good for the night allowance of workers who work between 6 p.m. to 6 a.m - 12 hours. But what will happen? Most of the workers are working in hotels, in free zones, in call centers. They even work seven hours, but they will not fall under this section. So, it is not fair. I make a request to the hon. Minister to revisit this section because it is going to penalise a lot of workers.

Concerning the ICT and BPO sector, which now is an important pillar of the economy, Mr Speaker, Sir, there is no Remuneration Order that exists, and my hon. friend knows it very well. Today is high time. We have thousands and thousands of workers working in call centers, in BPO and ICT. But, they are not governed by a Remuneration Order! The employers give the employees the salary that they want, the conditions of work that they want. It is now high time that the hon. Minister considers coming forward with a Remuneration Order for this sector. If not, these workers are going to continue to suffer and be victimised because of their work.

M. le président, depuis 2009, le monde fait face à une crise économique sans précédent. Nombreux pays ont revu leur système financier, et le modèle économique et plusieurs mesures prises sont au détriment du peuple. L'île Maurice aussi, on doit le reconnaître, n'est pas épargnée par la crise. Nous vivons dans un monde global, et l'île Maurice accueille de plus en plus d'étrangers, que ce soit pour notre secteur du tourisme ou des travailleurs étrangers. Notre succès et miracle économique reposent sur nos ressources humaines. C'est notre atout, et il nous faut le préserver. Je ne pense pas que des mesures au détriment du mouvement syndical apporteront une sérénité et permettront à notre pays d'avancer dans un environnement sain. Il nous faut préserver les protections contre les licenciements, et préserver les acquis des travailleurs. Toutes les lois du travail doivent être faites pour l'avancement des travailleurs de ce pays, et ne doivent pas être un recul, M. le président.

I make an appeal to the hon. Minister to withdraw this amendment. Come again with a new one after consultation with all stakeholders because it is not a simple piece of law, a simple amendment. If the hon. Minister insists, the Opposition is going to resist and will be against this amendment.

Thank you very much, Mr Speaker, Sir.

(6.10 p.m.)

**The Minister of Foreign Affairs, Regional Integration and International Trade (Dr. A. Boolell):** Mr Speaker, Sir, I have listened like all colleagues to the speech delivered by the former Minister of Labour, Industrial Relations and Employment. I do not intend to be nasty to say that the speech delivered by the hon. Member has been an exercise in futility, nor would I be nastier to say that he has been beating about the bush - like trying to find a needle in a haystack. But, having said so, Mr Speaker, Sir, it is good to remind hon. Soodhun, that when he was Minister, he did move for the First Reading of the Employment and Labour Relations Bill.

*(Interruptions)*

No, there was a White Paper, but you intended to move the Bill.

*(Interruptions)*

No, there was a White Paper in 2004, but then he intended to come with a Bill.

Now, Mr Speaker, Sir, this is not the first attempt that the Government, then under the Prime Ministership of Sir Anerood Jugnauth, has tried to move labour legislation. I am not going to refer to TULRA nor to the Bill, which the hon. Member intended to move, but which was never moved.

In 2005, Mr Speaker, Sir, we embarked upon a broad reform and we had an all inclusive package. The Employment Relations Bill and the Employment Rights Bill were introduced in 2008. There were extensive discussions, Mr Speaker, Sir. There were wide discussions at the bar of public opinion and all the stakeholders were taken on board. The hon. Minister knows very well that when it comes to gathering the views of one and all, when it comes to achieving consensus on a Bill which can be very sensitive, where you may have divergence of views expressed by those who are keen to move the process or others who are reluctant to move the process, it becomes very cumbersome.

My friend, the then hon. Minister of Labour, Dr. Bunwaree, had extensive consultation, notwithstanding the Ministerial Committee that was chaired by the then Deputy Prime Minister, and present Deputy Prime Minister, but it was an exercise that ultimately had achieved a consensus. We know that the two Bills were introduced in Parliament and, today, we are reaping the benefits of those Bills.

*(Interruptions)*

**Mr Speaker:** Silence!

**Dr. A. Boolell:** Mr Speaker, Sir, it is a fact. My hon. friend should know that the legislation is very dynamic, very fluid and that the legislation has to be flexible. There is no way out, Mr Speaker, Sir. It has to be flexible for the basic reason that our economic landscape has changed and 80% of our

economy will be service-oriented in a few years to come. Therefore, I will, Mr Speaker, Sir, make comments of a general nature.

Mr Speaker, Sir, I will refer to the chronology of events since the first Bill was moved by the hon. Minister on 11 December 2012. I will highlight some of the contentious issues that have been the subject of wide discussion outside the House and I will make concluding remarks.

But, it is good to walk down memory lane, Mr Speaker, Sir. These are simple, but I hope effective questions. Why is it that despite an average growth of more than 6% between 1992 and 2004, we ended up with a jobless growth and we ended up with loss of jobs at a dizzying speed? A sizeable number of workers lost their jobs. We have to ask basic questions again? How many of those workers who have lost their jobs obtained fair compensation? Where were the creditors and how did they rank the workers who were made redundant, Mr Speaker, Sir? Those workers were left stranded, fell by the wayside and lost their dignity. Of course, I am talking of circumstances, which were not difficult then. People were talking about blue sky, calm sea and nice sea breeze. Those were the days, Mr Speaker, Sir, when despite changes on the international scene, despite a new economic landscape they persisted to maintain two legislations which had outlived their purpose. I have in mind the Industrial Relations Act and the Labour Act of 1975.

Mr Speaker, Sir, my good friend, hon. Soodhun, was referring to these two legislations and informed us of things that we know, that because of the provisions of those legislations, when he championed the cause of workers, he was thrown into jail by the then Prime Minister, Sir Anerood Jugnauth. He was asked to keep company with mice, bugs and termites. Of course, had it not been for his good uncle, late Sir Satcam Boolell, he would have remained confined to the perimetry of the four walls. But then, this is history and this is the philosophy of the Labour Party to come to the rescue of trade unions who championed the cause of workers.

Let me remind the House also, when Algoo had his hand cuffed to the bed in hospital, suffering from heart problem. In spite of the fact that we were in Government, we saw to it that Algoo should be released and be treated with all the dignity and respect that he commanded. This decision was based on principles and values of the Labour Party.

Earlier this morning, the hon. Prime Minister was saying that 45 journalists fighting for freedom of association, fighting for democracy, human rights, were arrested and thrown into jail. Now, you want to know the vast difference that there is between them and us, Mr Speaker, Sir. We are people of principle, Mr Speaker, Sir, and we are a party deeply rooted in the values of socialism, but there is no such thing as *status quo*, Mr Speaker, Sir. The world moves on. We have become a tiny winy hamlet in

the global village, Mr Speaker, Sir. Therefore, we cannot live with rigidity and anachronistic legislation. This is why we have to loosen the rigidity of the labour law and we have to be active and pro-active.

Since 2005, my colleague, the then hon. Minister of Labour, has had extensive discussions; not only did he have intensive discussions, Mr Speaker, Sir, with those stakeholders, but sought the views of our friends from ILO, because we subscribe to the Convention of ILO (Conventions 87 and 98) which led to the introduction of two legislations which respond to the needs of a nation which is on a march, Mr Speaker, Sir. Our objective is not to confine workers to low income or low productive job. In fact, the policy of the Government, in its all-inclusive package, is to empower workers, Mr Speaker, Sir, putting the country and the workers first, but, at the same time, we have to be faithful to our mixed policies, Mr Speaker, Sir. You have to create the conducive environment, to attract investment, to widen the circle of opportunities for workers, trade unions, employers and for everybody. There was a time when we said that to be successful, you need to have a Three-Legged Stool: private sector, public sector and trade union. Today, we need a four-legged Stool: private sector, public sector, trade union and NGO. The process has to be inclusive. There is no alternative to an inclusive process, Mr Speaker, Sir. And when I think of the fate of those workers who staged a protest when IRA and the Labour Act were in force, what was the instruction given, Mr Speaker, Sir, to the SSU to wield the baton and charge those workers who had been made redundant and fighting for their basic rights.

I ask the question again ...

*(Interruptions)*

Yes, if you want to walk down memory lane and recall wildcat strikes: paralysis of the port, Mr Speaker, Sir, setting sugarcane on fire, bringing the country to a standstill, putting at risk the export of our basic commodity, which was the mainstay of the economy, sugarcane. We can walk down memory lane and I will accompany you in our perambulation down memory lane.

Mr Speaker, Sir, I ask the question: when those workers were made redundant, did they have any accompanying measure? Could they register on the workfare programme? There was no workfare programme. Would they be eligible to a transition unemployment benefit? Could they be skilled and re-skilled? Because if you want to empower our workers, we need to raise the profile of the workers and we need to make sure that through training, they become dignified. Did they have the opportunity then, Mr Speaker, Sir, to have start up to start small micro-enterprise? Did they have any support from SMEDA, Mr Speaker, Sir? What was the relevance then of the termination of the service and contract board vis-à-vis those redundant workers? Was reinstatement, Mr Speaker, Sir, possible for those when there was a

*prima facie* case of unfair dismissal? What were the criteria for closure? Were these clearly spelt out, Mr Speaker, Sir?

Mr Speaker, Sir, this is the difference that we make. We make the difference because we champion the cause of workers and we believe in human capital, Mr Speaker, Sir. I had the visit, two weeks ago, of a newly appointed Chinese Ambassador and he was there to pay courtesy call, but we talked for an hour and you know what he told me, notwithstanding that he was full of praise of our decision-making process to turn the economy round, following the abysmal inheritance or legacy that was bequeathed to us in 2005.

Today, China, Mr Speaker, Sir, is pro-market economy and they are having a fresh look at labour legislation. They are revamping, Mr Speaker, Sir, their public sectors because the name of the game is competitiveness and what is true for China, now a prominent member of the World Trade Organisation, is equally true for New Zealand, and in New Zealand one of the most enterprising companies is a company run by cooperative society – Fonterra, Mr Speaker, Sir, exporting agro processed products to Europe and to the Far East and Middle East, Mr Speaker, Sir. So, what is it that we have to do? We constantly, together with our trade union, need to work together, act in unison and be mindful how events are unfolding on the international scene.

Mr Speaker, Sir, we are negotiating with the objective of concluding a complete EPA agreement and, of course, we need to monitor carefully what the outcome of a post 2015 AGOA would be. It is very important because when you have your reliable and most trustworthy partner, your predictable partner, negotiating trade agreements with third parties, we have to be careful of the impact that these agreements, call it FTA, will have upon our export: tuna, sugar, textile and garment, Mr Speaker, Sir. This is why I say it is a very competitive world and it is tough outside. So, I am glad that there is a carve-out in the amendments that are being brought to ensure that our export-oriented sectors do have what I would call some legitimate advantages, Mr Speaker, Sir.

And it is good also, that employers have adopted new procedures. Today, there is a new mindset; new mindset because we need to adapt. If we don't adapt, Mr Speaker, Sir, I am not going to say that we are going to perish, but certainly we will suffer huge setbacks. When you look at the production unit of - let me take the case of Leisure Garments which exports most of its products to USA; they have what they call deskilling of the Production Unit, to make it easy to attract young people to come and work, and whether we like it or not, we need to have a workforce which is also multi-skilled. Because when you look, Mr Speaker, Sir, at the cardinal principles of the two legislations, Mr Speaker, Sir, we have to refer to flexibility in the labour market, to allow for horizontal and vertical mobility of workers and we have to make sure that enterprises become more adaptable in a world, as I have said, where firms have to be

globally competitive. We need security for workers and I talked earlier of support to face risks to enable workers to move from one job to the other.

I mentioned earlier the industrial relation that reflect new and more varied needs of employees and sophisticated relations between employers and employees and, of course, collective bargaining that is fair to employers and to the population in case where the general welfare of the population is involved. But at the end of the day, Mr Speaker, Sir, if I want to share the cake and I want to ensure that there is fair and equitable distribution, I have to create the conducive environment to make the cake bigger and this is why I come back to the all-inclusive package where we put a lot of premium upon the two legislations that have been introduced, two legislations which are very dynamic and because they are so dynamic, we have no choice but to constantly amend the legislation.

Mr Speaker, Sir, but, there is seriousness of purpose and my colleague has been very thorough when he moved the Second Reading of the Bill. I read carefully the speech that he delivered; a masterpiece, stroke of a Minister, Mr Speaker, Sir, who is a rising star. I must say, not a single provision of the legislation was left out, Mr Speaker, Sir. I recall when hon. Dr. Bunwaree introduced these two legislations, we saw to it that we would leave no stone unturned. What was the criticism levelled at us then? More of a perception than reality, a misconception that it would be easy to hire and fire, Mr Speaker, Sir. But then, Mr Speaker, Sir, it was not the case.

Let me refer, Mr Speaker, Sir, to the set criteria established before there is closure of factory and the icing on the cake in respect of the legislation is, what we call, the Employment Promotion and Protection Division. This is the icing on the cake. What it does, Mr Speaker, Sir is that it compels the employer to justify his or her action. The vast difference, Mr Speaker, Sir, is the possibility for reinstatement. This is the icing on the cake.

Mr Speaker, Sir, of course, we want full participatory approach, and to have it, we need to empower the Trade Union. We have to make sure that the level of preparedness is excellent, because we don't want any oligarch in the Trade Union Movement, Mr Speaker, Sir. Only oligarchs think that they can call strike at their own whims and caprices, because they think that others do not have the same level of preparedness.

Access to information has become a right and not a privilege of a handful few, Mr Speaker, Sir. What we are saying is that Government is there to dispense support to Trade Union. When you look at the provision in respect of affiliation to Trade Union, powers given to Trade Union to enter into collective bargaining and agreement, we want to ensure that they are able to recruit the best lawyers, the best accountants, the best economists, Mr Speaker, Sir. Whether, you are in the Green Room in Geneva of the

World Trade Organisation or at the oval or round table, Mr Speaker, Sir, we need to put arguments forward and we need to have the power to rebut arguments put forward by those who can destroy emotion, because no nation thrives on emotion alone, Mr Speaker, Sir. We need substance and substance, Mr Speaker, Sir.

So, when we look at all the provisions in the legislation to empower workers, these are decisions not taken lightly. Besides wide discussions at the bar of public opinion, advice was sought from the ILO, Mr Speaker, Sir, and there was a memorandum of technical comments on the Employment Relations Bill and Employment Rights Bill which were submitted. I don't know whether it is fate, but I was told that my good friend, hon. Soodhun, was given a senior post at the ILO, Mr Speaker, Sir. Maybe, he would have been there to endorse this document but, unfortunately, Mr Speaker, Sir, perception is not always a mirror image of reality.

Let me refer, Mr Speaker, Sir, to the chronology of recent events. It is good to again reiterate what the hon. Minister stated from the time he moved the Bill for the First Reading and the interactive session he had with workers organisations notwithstanding a document that was forwarded to the Prime Minister which, of course, was sent to the Minister of Labour, Industrial Relations and Employment. But, Mr Speaker, Sir, there was ongoing dialogue. I can understand, as I say, that we cannot rally everybody to our views. Mr Speaker, Sir, you have been an excellent Minister of Labour and Industrial Relations and you know how difficult it is, especially when out there, Mr Speaker, Sir, there are people hell-bent to undermine the economy. I recall those days, but we moved on with time, like we say, this is a new era. An era, Mr Speaker, Sir, where 80% of our economy has become service-oriented and we need new mindset with new legislations. This is why it was important that the dialogue was ongoing. I cannot blame others who chose to stay elsewhere, Mr Speaker, Sir. We know what has been the outcome of the strike that they organised; an outright abysmal, failure because today people are aware. As I say, knowledge is widely disseminated.

The hon. Minister had given interviews to all the press, had several interactive sessions, and had aired his views on the radio. So, the nation was apprised of the merits of these two legislations, Mr Speaker, Sir. We had meetings with the MEF, *Platform kont lalwa travay anti-travayer*, Federation of Civil Service, etc. But then, what was the criticism levelled? One, that there was no structured dialogue. I can understand my friends from the Employers Federation or from the Trade Union Movement. They have to voice out their feelings, otherwise they will be in oblivion. They have to be heard.

But, ultimately, Government has to assume its responsibility, and a responsible Government, Mr Speaker, Sir, has to be seen to be convincing and the nation has acquired to the arguments that we have put forward to them, Mr Speaker, Sir. And precisely, why we take decisions where others failed, Mr

Speaker, Sir, it's because in the furtherance of the interest of workers and the nation at large, we have to empower our people. We don't have to look back, but we look in the rear mirror to give a better interpretation to the present and the future, Mr Speaker, Sir.

Mr Speaker, Sir, let me come to the right to strike. We know that the Prime Minister under the previous legislation had the power to call off a strike. But he had surrendered this power when the new legislation was introduced. Only the Supreme Court can declare a strike illegal. The Prime Minister has the right to apply to the Supreme Court, prohibiting the continuance of a strike. But we need to ask basic questions. The right to strike, under section 76, is entrenched in our law. It is a fundamental right. It cannot be taken away, Mr Speaker, Sir. But, however, sacrosanct the right is, is it an absolute right? I ask the question. Is it an absolute right, Mr Speaker, Sir? Irrespective of the jurisprudence, rights, Mr Speaker, Sir, are conditional. Each right has a reciprocal duty. And what is this reciprocal duty, Mr Speaker, Sir? We cannot send wrong signals to foreign investors. Our social harmony should not become brittle. Even then, Mr Speaker, Sir, the hon. Minister in his wisdom, protects the worker, Mr Speaker, Sir.

Employees, Mr Speaker, Sir, should understand the importance of discipline at work and the meaning of man hour, that is, productivity and competitiveness. This brings me to the status of collective bargaining which is a contractual obligation between parties. In the middle of an existing contract, how can we discuss the enforceability of a document that already exists and by the provisions of which parties are bound? I have in mind, Mr Speaker, Sir, of course, enforceability of collective agreement between the Joint Negotiating Partners and the MSPA in the present collective agreement, only if there are varying circumstances of major impact on export oriented economy. If we don't export, we die. If we don't attract investment, we have setbacks, Mr Speaker, Sir and against a backdrop of financial and economic crisis. We have to export, we have to export and we have to export. Can we afford to allow anybody to paralyse our airport or our sea port, Mr Speaker, Sir? This is the harsh reality. When there are varying circumstances of major impact, when there is a major increase in the cost of living, there can be negotiations even if the contract is in force. The onus is to prove that there is an exigency proved with concrete evidence that there have been varying circumstances, I refer to section 58 (b) substantial change of circumstance.

Mr Speaker, Sir, when the hon. Minister moved the Second Reading of the Bill, he warned the House and the country at large of impending strife; by those, Mr Speaker, Sir, who were hell-bent to use existing provisions to leverage their alleged clout. But as I have said, Mr Speaker, Sir, they have been caught literally with their pants down.



Mr Speaker, Sir, I am not going to highlight the host of measures taken by the hon. Minister to reinforce powers of workers and to make it possible for workers to be more mobile because there is no such thing as job protection. In fact, we have to safeguard the interest of workers.

Mr Speaker, Sir, there have been some proposals made by responsible trade unions. On the issue of portable severance allowance, I am not going to highlight the merits or the demerits, but it is something that we need to give some thought. I know that the hon. Minister of Labour is presently in consultation with the International Labour Office with a view to be provided with an expert to advise as appropriate on the matter.

Mr Speaker, Sir, since 2005, we have been bold and we had the audacity to change, to turn the economy round, to be credible vis-à-vis development cooperating partners, to raise our profile vis-à-vis the International Labour Organisation in respect of the conventions that we signed. Of course, I have in mind also, convention on domestic workers. I have in mind convention on night shift. When I look at the host of measures taken to dignify workers, Mr Speaker, Sir, and to send strong signals to all partners that there is a need for fair and equitable distribution; provided, of course, we instill discipline and work ethos. No one owes us a living, Mr Speaker, Sir. The world is dynamic and as a teeny-weeny hamlet in the global village, we have to mainstream, be active and proactive.

Thank you very much.

(6.45 p.m)

**Mr R. Uteem (Second Member for Port Louis South & Port Louis Central):** Mr Speaker, Sir, after five years of sufferings, tears and thousands of job losses, after five long years of protests by workers, trade unions and Members of the Opposition in and outside Parliament, Government finally comes forward with two Bills to amend the Employment Rights Act and the Employment Relations Act. Hopes and expectations were high. The hon. Minister of Labour promised a lot, but in the end, he turned out to be nothing more than a perceived '*zom patron*', *un ministre patron*, *un ministre* perceived to be at the beck and call of the large corporations and the sugar barons. For truly, save for a few bits and pieces here and there; there is nothing, nothing in the proposed amendments to these two legislations to improve the lot of the workers, nothing to brag about. It is no surprise, therefore, that the trade unions and workers from all quarters have unanimously rejected the amendments. It serves no purpose for the hon. Minister to try to capitalise on the rift between the trade unions. The fundamentals are unchanged. The reasons why the Opposition and the workers have rejected the Employment Rights Act and Employment Relations Act when they were introduced in 2008, have not been addressed. No new social contract is being proposed.

Mr Speaker, Sir, the two existing legislations are largely regarded as being unduly biased in favour of the employer. He has the right to hire and fire. All that this employer needs to do is to argue that the employment of the worker is being terminated for economic, technological, structural or similar nature affecting the employer's activities. Once he has done this, the only thing he needs to do is to pay a meagre recycling fee of either three days, six days, 10 days or 15 days of basic salary for every 12 months of continuous employment. That is all! Only between three and 15 days of basic salary! Of course, the Bill does propose to amend the recycling fees which these employers have to pay: by how much? The recycling fee will now be increased from three days to six days of basic salary for every 12 months. Yes, Mr Speaker, Sir, from three days to six days. What an achievement! This is how we are going to make the employer contribute to the welfare of workers. Truly a caring Government! A Government that cares for the pockets of the employers. Thanks to 'zom patron', *le grand patron* will only have to fork out six days of salary per year of service for workers up to ten years of service. That is not even half of the normal severance allowance which used to be two weeks per year of service. That is not even 7% of the severance allowance at punitive rate which used to be three months per year of service.

Today, the employer only has to fork out between six days and 15 days. Once the employer dismisses the worker on economic grounds, the worker can either sue the employer before the Industrial Court or he can join a workfare programme, but he can't do both. If you want to be paid transitional unemployment benefit, if you want to benefit from the workfare programme, you can't go to court. That's the stick! Only the Permanent Secretary of the Ministry can decide whether you can go to court and enjoy your workfare programme. The Ministry of Employment has the duty to try to find a settlement between the employer and the workers. It is only when he can't find a settlement between the worker and the employer that he has to start investigating and considering whether there is a genuine *bona fide* case to go to Court.

Unfortunately, Mr Speaker, Sir, a lot of us, Barristers, who deal with workers who have been laid off after the coming into force of the Employment Rights Act, know the uphill battle which workers have to undergo in this country when they are facing employers who have dismissed them for reasons of economic, structural or technological changes. And I speak from experience when I say that the labour officers in the Ministry are ill-equipped to ascertain, verify and determine whether dismissal on economic grounds is justified or not. They do not have the necessary skills and expertise to undertake a review of the financial situation of the employer. They do not have the skills and expertise to determine whether the employer's alleged economic difficulties are genuine or not; whether they are cyclical or permanent, and because of this major shortcoming, they pressure the workers to accept a settlement with the employer.

A Member of my constituency was telling me the other day, Mr Speaker, Sir, how, through trickery, his employer terminated his employment. For a number of years he had been working for one of the flagship companies of Mauritius, one of the big listed companies in Mauritius. And then, one day, the HR Manager called him and said “we are restructuring our operations, and you will no longer work at the Head Office for this company. We are going to make you work for a subsidiary.” Two years later, the subsidiary closed down. He was sacked; terminated on economic grounds. He went to see the Ministry for help, and the Ministry invited him to join the workfare programme, telling him to go and negotiate with the employer. Do you know, Mr Speaker, Sir, what was the outcome of the negotiation? The employer gave him back his job in another subsidiary on the express condition that he waives all his existing years of service and benefits, and accepts a reduced pay.

This is what workers of this country have to go through because of the existing legislation. The system is abused by the employers, and workers are not adequately protected. The hon. Minister himself concedes that this provision is being abused by the employers.

Answering to a PQ, which I asked him on 10 May 2011, the hon. Minister stated that 6,932 workers had lost their jobs since the Employment Rights Act was proclaimed, and out of the 6,932 workers, only 369 - not even 5% - cases of workers laid off had been lodged in the Industrial Court. Only 5%. What happened to the others? They just settle. He said, and I quote -

“Ever since the proclamation of the Act, it is clear that certain employers have made use of the term ‘economic reason’ in order to make certain people redundant, and all sorts of schemes and measures are sought after and devised by certain employers, in order to make people redundant. The hon. Member is totally right that there are some operators who make an abuse of the system, and they call it economic reasons in order to avoid to pay compensation”.

He then added, and I quote -

“Let me also add that I have recently received many representations by trade unions, who have asked that there should be some sort of amendment made to the Employment Rights Act in order to have a filtration process whereby this abuse made by certain employers could be reduced. Those suggestions are very interesting and are indeed being studied. Our objective thereby is to avoid this abuse because we believe that we should not allow any employer, not even one, to come and put forward the economic reason as the reason for redundancy because this would be an easy way out for them not facing the responsibility of paying compensation. We are seriously studying the proposals made by the unions”.

That was in 2011.

“We are seriously studying the proposals made by the unions.”

Two years ago! It's okay! He was a new Minister; he needed time to study the points; he no doubt also needed to discuss these proposals, which he found very interesting, with *le grand patron*. So, a year later, when nothing had been done, on 08 May 2012, answering a PQ from hon. Alan Ganoo, the hon. Minister stated that 15,538 workers had lost their jobs since the Act was proclaimed. About 9,000 more workers had lost their jobs while the perceived '*zom patron*' was seriously studying proposals made by the unions. This is what the hon. Minister said in this House. In the space of one year, from around 7,000 to 15,000 laid off. And to give the impression that he actually was doing something about it, he stated, and I quote -

“I have already gone to Cabinet with proposed amendments. We are, in fact, setting up a new institution in order to see to it that the abuse that certain employers make will no longer exist. We are also making very important changes with regard to termination of employment in the Employment Rights Act. We are also bringing some positive changes to the workfare programme that works in the advantage of laid off workers. Therefore, I can assure the hon. Member that Cabinet has already approved those changes, and every single change that is being brought will precisely address this situation, which I totally agree with him, must be addressed because there are certain employers who make an abuse of the situation”.

Now, let us pause for a minute, Mr Speaker, Sir, and reflect on what the hon. Minister said a year ago when considering proposed amendments. As far back as May 2012, one year ago, he informed us that Cabinet had already approved the proposals. One year ago, Cabinet has already approved the proposals, and here we are today, one year later, the hon. Minister is still proposing amendments to amendments of the new law. How indecent it is, Mr Speaker, Sir, that after the hon. Minister had done the Second Reading, he comes up with further amendments, which we received during the weekend? And then, further amendments to the amendments he circulated during the weekend, which were only communicated to us yesterday. What is this? How are we going to interpret these amendments? These were circulated after he did his Second Reading. What type of respect there is for Members of this august Assembly? And this, Mr Speaker, Sir, is the characteristic of this Government! They don't know where they are going. They don't know what they are doing. They govern by trial and error, as was rightly said by the Director of Audit a few years ago. They simply do not trigger the thought process before they take a decision. To call them *amateurs* would be flattery. They are simply *limités* and incompetent, and thousands of workers have lost their jobs because of their incompetence.

So, in May 2012, the hon. Minister announced that he is bringing some positive changes to the workfare programme that works in the advantage of laid off workers. Cabinet has already approved the

positive changes to the workfare programme. What are these? Mr Speaker, Sir, I have struggled my way like all my friends, I am sure, on both sides of the House, through the layers of amendments that have been communicated to us over the few weeks. But I could find nothing about how the workfare programme is being improved, except that the delay for the worker to join the programme has been extended from seven days to 14 days.

The amount to be paid to the worker under Transition Employment Benefit is not being increased. The compensation payable to workers is not being increased. This compensation will still terminate if the worker becomes gainfully employed, or worse, if he refuses an offer for job placement for a second time, irrespective of the type of job and salary offer.

But then, why did the hon. Minister state to this House that he would improve the workfare programme, that Cabinet has already considered his proposals one year ago? And then he fails to deliver on what he has stated. Did he receive representation from his masters - a term which he likes to use for others - not to improve the lot of the laid off workers? That reminds me of a song '*parole parole*'. It is easy for anyone to say anything anytime, anywhere, but only men of honour stand by their words. "Honour" surely is not part of the vocabulary of those who want to control everything and yet be responsible for nothing.

So we are told that changes are being proposed which will address the situation because in the words of the hon. Minister there are certain employers who make an abuse of the situation. Will the situation change with the proposed amendments? Mr Speaker, Sir, I am quite sceptical about it. The Bill proposes the setting up of an Employment Promotion and Protection Division of the Employment Relations Tribunal which will determine whether reduction of workforce is unjustified. This Division, according to the proposed amendments, will consist of the President or Vice President of the Tribunal and of two independent members with proven experience in field of employment relations and finance respectively. Two independent members - what does 'independent members' mean, Mr Speaker, Sir? Do independent members mean that he cannot be a worker? Does it mean that he cannot be a trade unionist? Does that mean that he cannot be an employer? It would seem that the Minister has absolute discretion in the matter, but I hope that, in his summing up, he can indicate to us what are the criteria to be used to determine what 'independent members' mean.

Now, this new Body will only have jurisdiction to hear cases involving employers of not less than 20 members. Why 20? We all know that most SMEs would not qualify. A lot of small companies will not qualify. A lot of people, who are employed by these SMEs, will not have the benefit of that Tribunal. On the contrary, it will encourage large groups to split their operations in smaller units and employ less than 20 employees so that they fall outside the purview of the Tribunal. Next, we need to consider who can

refer cases to the Division. No surprise here again - only the Permanent Secretary of the Ministry can; not the worker; only the PS. And there we see the very same cut and paste provision which has to be followed under the existing law before the Permanent Secretary could refer the matter to the Industrial Court, the very same procedure which has been condemned by trade unionists, workers and Members of the Opposition. The Permanent Secretary still needs to promote a settlement between the parties and he still needs to determine that the worker has a *bona fide* case. Again the worker has absolutely no say. If the worker is not happy and wishes to refer the matter to the Industrial Court - a stick again – he loses his right to transition unemployment benefit. He is thrown out of the welfare programme. The British has an expression, Mr Speaker, Sir, to qualify this state of affairs – “old wine in new bottle” – I prefer our very old expression: *bouz fix vir ki tourne, tourne ki vir* much of the same thing. The Division, if it is called upon to consider a case will hopefully be better equipped than the Ministry, but the fundamentals are unchanged. The root of the problem has not been tackled. The employer can still hire and fire at will. He does not need to go through the Division before he sacks a worker. This makes all the difference because this puts the employer in a strong bargaining position. The workers, having lost their job, are in financial difficulties; they are vulnerable and will accept any compensation from the employer. This is precisely what *patron là* wants. That’s exactly what *zom-patron là* is offering to him on a *plateau*. Nothing will change. The employers will continue to abuse the situation. Workers will still be arbitrarily sacked, a total failure.

Mr Speaker, Sir, I agree that in the proposed amendment, the employer now has to consult trade union or group of workers and explore the possibility of avoiding a reduction in workforce, but this is only a formality. There is no legal obligation for the employer to agree with the worker. There is no obligation on him to take any of the measures set out in the proposed section 39(a) (iii). There is not even a prescribed time frame for consultation, just an absolute eyewash. The employer only has to state that the redundancy has become inevitable after meeting the trade unions and we all know how accounts, Mr Speaker, Sir, can be prepared to paint a picture of doom and gloom.

Mr Speaker, Sir, we are pleased to see that the Division and the Industrial Court will now have the power to reinstate employees. For too long, workers have been subject to arbitrary dismissal and management got away with it by signing a cheque. There is nothing worse for a worker than to be innocent and yet lose his job. This is such a great injustice. You are innocent, you lose your job; they are wrong in dismissing you yet they stay in their job. We all remember, Mr Speaker, Sir, the case of Mrs Rehana Ameer. This case was the subject of a PNQ in this House. She was summarily dismissed. The management of MBC/TV was clearly at fault, but she had all the trouble of the world to get her due and be reinstated. I salute her today. I salute her because there are very few people especially women who will

stand up against the “Jigri Dos” of the Prime Minister, master of manipulation and head and chief of Navinchandra propaganda. Even the hon. Minister of Labour had to suffer the humiliation of being snubbed by the hon. gentleman who refused to meet him when he was summoned to appear before the Ministry. Yet this gentleman indecently stayed in his office and comes here every Tuesday; fed by the compulsory licence fees which workers of this country have to pay even if they can’t stand watching cheap politicians impose their image every day and night on TV. Most recently we had the case of Ms Asha Rampadaruth who had to undergo a hunger strike together with trade unionist Jack Bizlall to seek justice after being unfairly dismissed. She wanted to be reinstated. She wanted to work, but, in the end, she had to do with compensation when the employer refused to reinstate her.

Mr Speaker, Sir, the proposed legislation is also correcting a long-standing injustice suffered by workers who have a contract of fixed duration. We all know how some unscrupulous employers employ workers for eleven months of the year then comes the month of November they are sacked, the contract is terminated. In January, February, they are given a new contract. By doing so, the unscrupulous employer does not have to pay end-of-the-year gratuity and the workers are vulnerable because, not having stayed for more than one year in employment, they don’t get some of the acquired rights like annual leave, sick leave and the rest. At the end of the expiry of his contract, the vulnerable worker receives no compensation. But, let us not forget Mr Speaker, Sir, how this loophole or anomaly in the legislation has been abused by this very Government. After the general election, especially in 2005, they engineered what I call political cleansing, the notorious *lev pake aller* to terminate the employment of dozens of workers. In the obsession to put their own people first, they would lay off social workers employed on a contractual basis. I have in mind the trade unionist, Eddy Sadien, who was inelegantly told to *lev pake aller* after the Labour Government came into power. He went all the way to the Supreme Court, but the Supreme Court applied the black letter law; refused to consider the successive employment contract and rejected his claim for continuous employment.

Mr Speaker, Sir, when the two legislation were enacted in 2008, they were largely perceived to be as a trade-off. First, the Industrial Relations Act was repealed - something which trade unionists have been asking for years. So, that was for the workers, for the trade unions. The Employment Relations Act was enacted and the Labour Act was repealed and replaced by the Employment Rights Act which is pro-employer, giving them the right to hire and fire without having to go through the Termination of Contract of Service Board.

Unfortunately, today with the proposed amendment certain acquired rights of workers under the Employment Relations Act are being revoked, while the acquired rights of the employer under the Employment Rights Act are being preserved. It is for this very reason that the Minister is widely regarded

as ‘*zom patron*’. One of the acquired rights of workers under the Employment Relations Act was a right to strike. Of course, procedures had to be followed, but ultimately, when there was a dispute which was not resolved and a strike ballot had successfully been taken, workers had the right to strike.

Mr Speaker, Sir, the right to strike is not a new demand. The Select Committee of this House set up in 1982, in relation to the repealing and replacing of the Industrial Relations Act, considered lengthily the right of strike and stated, I quote –

“Your Committee strongly considers that irrespective of the nature and function of industrial relations machinery, the right to strike should, as a fundamental human right, remain the ultimate weapon of the worker in the furtherance of his rights.”

This fundamental human right was recognised by hon. Dr. Bunwaree - when he was then Minister of Labour - who presented the two Bills in 2008. He said, and I quote –

“The right to strike, Mr Speaker, Sir, is an intrinsic corollary of the right of association and has been adequately provided for in Part VII of the Employment Relations Bill along the line advocated by the ILO.”

Even the hon. Prime Minister commented during the debate as follows –

“The right to strike has been a subject of much heated debate in Mauritius. One major hurdle to the right of strike is the power vested in the Minister by the current legislation to refer a dispute for compulsory arbitration. It deprives the worker of a fundamental right and deprives the trade unions of what they consider to be the most effective means at their disposal to forge a solution which is to the advantage of the members. This will no longer be the case in this proposed legislation. In fact, the law will now allow the workers to decide in a democratic manner whether or not to go on strike. Though the right of strike is an intrinsic part of freedom of the association, it should also be used as a last resort after all attempts at conciliation and mediation fail.”

Unfortunately, Mr Speaker, Sir, today, what is being proposed before this august Assembly seriously curtails the right of workers to strike. The hon. Minister is expanding the cases where workers cannot report a labour dispute and this is a pre-condition to calling a strike. I tend to agree with Mr Ashok Subron when he states that the proposed amendments are tailor-made for the sugar barons and meant to prevent workers from the sugar industry from going on strike.

The proposed amendment to section 67 of the Employment Relations Act goes beyond what is accepted in a democratic State which respects the right of workers. The Minister is also proposing to amend section 9(2) of the Employment Rights Act which prevented a worker from being dismissed for



reasons of his participation for a first time in a strike. This provision was not inserted by mistake, as the hon. Minister would have it. *C'est l'aboutissement d'une longue lutte des travailleurs*, a struggle which, indeed, was supported by the real Labour, and by this, I mean Dr. Maurice Curé, Guy Rozemont, Emmanuel Anquetil and the like, not by the fake Labour, the usurper who suppressed trade unions and enacted the Industrial Relations Act, a struggle that was continued by Paul Bérenger and others.

Mr Speaker, Sir, the Report of the Select Committee in 1982 provided, and I quote –

“As for the legal effect of strike, your Committee are of the opinion that on no account should a worker be exposed to criminal sanction on the sole ground that he has participated in a strike and on no account should the contract of employment of a worker be terminated on the sole ground that he has participated in a strike.”

That was back in 1982. Today, ‘*zom patron*’ is talking about an anomaly in our law. Guy Rozemont must be rolling over in his tomb, the same Guy Rozemont who is reported to have said, and I quote –

*“S’il y a des capitalistes au paradis, ce qui est fort improbable, je n’hésiterai pas à provoquer une révolte des anges.”*

*Non, Monsieur Rozemont, ils ne sont pas au paradis ! Ils sont tous là dans notre auguste Assemblée, en face de nous, représentant ce qui fut jadis votre parti !* What has become of the Labour Party? What has become of the champions of workers’ right?

*(Interruptions)*

**Mr Speaker:** Order!

**Mr Uteem:** Mr Speaker, Sir, throughout his speech, the hon. Minister shed his venom on the trade unionists who were not present in this House; trade unionists who could not defend themselves, because they were absent from the House; they had no right of audience.

Today, I want it to be recorded that we, on this side of the House, have always and will always stand by the side of the trade unionists whose aim is, and has always been - and I am sure will always be - to better the standard of life for all those who work for wages and to seek decency and justice and dignity for all workers in this country.

Thank you.

**Mr Speaker:** This is the proper time to suspend for one hour and fifteen minutes.

*At 7.26 p.m. the sitting was suspended.*

*On resuming at 9.03 p.m. with the Deputy Speaker in the Chair.*

**Mr J. F. François (Third Member for Rodrigues):** M. le président, mesdames et messieurs les honorables membres, le pays traverse un moment exceptionnel après avoir subi les tragédies résultantes d'une calamité naturelle, les *flash floods*, un phénomène qui relate aussi à certaines provisions de l'*Employment Rights Act* et de l'*Employment Relations Act*.

M. le président, permettez-moi d'abord de rendre hommage aux victimes de cet évènement apocalyptique que vient de vivre toute la nation Mauricienne et au nom du peuple de Rodrigues que je félicite d'ailleurs, j'exprime notre totale solidarité sans condition dans cet élan d'unité nationale face à ce drame envers ceux qui sont dans la détresse et aussi en mémoire des victimes en partageant les peines des familles.

M. le président, le projet d'amendement à l'*Employment Rights Act* et l'*Employment Relations Act* est d'une portée sensiblement historique dont nous débattons aujourd'hui avec des provisions nouvelles et aussi dans un cadre des avis divergeant sur le *timing* et certaines provisions proposées. Je suis ravi que l'honorable ministre ait décidé que certaines provisions contradictoires seront enlevées lors de l'examen en comité. Permettez-moi quand même de souligner que la présentation de ces amendements, que ce soit avec détermination ou conviction, en action et en pensée se trouve dans une situation de résistance continue mais démocratiquement importante.

M. le président, mon intervention ce soir se situe dans un contexte précis de ces amendements surtout en tant qu'élu du peuple de Rodrigues tout en saisissant l'opportunité de progrès collectif et d'un changement de regard historique pour la République. Evidemment, j'apporte en particulier mes réflexions personnelles en ligne avec les principes fondamentaux de mon parti, l'OPR, qui a toujours lutté pour plus de justice sociale pour le mieux-être de notre peuple et, plus particulièrement, la classe travailleur. J'apporte aussi sans parti pris - je dis bien, sans parti pris - la voix venant des syndicats de Rodrigues. Et là, M. le président, dans le cours de la seconde lecture de ces amendements, j'ai fait un devoir d'aller rencontrer les syndicats de Rodrigues notamment le *Rodrigues Government Employees' Association (RGA)*, le *Rodrigues Public Service Workers' Union (RPSWU)* et d'autres syndicats du secteur privé et Monsieur Milazar, le président de la *Rodrigues Commission for Conciliation and Mediation* pour prendre connaissance de leurs appréciations et positionnements vu qu'ils sont les plus concernés techniquement sur le plan local en la matière.

M. le président, dans le cadre de ces amendements, la grande question que chacun de nous doit poser reste quel droit du travail et de relation, pour quel développement pour le progrès de l'avenir économique, social et politique pour notre pays. M. le président, l'objectif primaire de ces amendements est de protéger les intérêts des travailleurs, régulariser certains manquements pour les employés et accentuer les rôles de l'État même parfois s'ils sont controversés.

Coming now to the Employment Relations Bill, Mr Deputy Speaker, Sir, the various objects of the Bill to amend the principal Act, as set out, define an avenue for more practicable piece of law such as –

“to have recourse to strike - a very important piece of information - if need be, where no settlement is reached at the level of the Commission.”

To build productive employment relationships through the promotion of good faith in all aspects of the employment environment and others as set out in the Explanatory Note. They do provide some newness to the Principal Act, certainly, Mr Deputy Speaker, Sir. At section 29(1) of the Principal Act it is said that provision is made for the right of workers to freedom of association and this, in line with the International Labour Organisation Convention to establish or join as a member of trade union of his own choice without previous authorisation and without distinction whatsoever, discrimination of any kind, including discrimination as to occupation, age, marital, sex and others.

Mr Deputy Speaker, Sir, I have paid particular attention to the Second Reading Speech of the hon. Minister Mohamed. I have also scrutinised the various reactions in the general public since 11 December 2012 for its First Reading of the two Bills and what have been voiced also by the hon. Members just then. In that connection, my contribution will be very brief indeed for those amendment Bills. As the Bill is before us, Mr Deputy Speaker, Sir, it is our responsibility to make it work, to amend it where necessary and it is clear that any piece of legislation introduced in this Assembly must have as main aim the best interest of one and all to make our democratic Republic a modern and progressive developed one. Here, I have to quote the inspiring Mr Abdul Kalam, former Indian President who wrote, and I quote –

“I call to my people to rise to greatness. What are the forces which lead to the rise or fall of a nation and what are the factors which go to make a nation strong?”

And he answered that three factors are invariably found in a strong nation –

- (i) a collective pride in its achievements;
- (ii) unity, and
- (iii) the ability for combined action.

In that case, Mr Deputy Speaker, Sir, if the hon. Minister’s intention is to bring about a re-essence to the employer/employee relations and rights, the proposed amendments must allow people to reason from their good intentions and their wishes with positive response.

Mr Deputy Speaker, Sir, the employment relations in our Republic is in a period requiring far reaching and general positive reformation particularly insofar as policy framework is concerned. I think all, and we have the capacity to bring legal amendments, not to repeat the error of other countries with regard to the uncertain public and private policy direction in as far as employment relations and employment rights are concerned. In fact, our employment relations practices shall not be subject to controversial and highly adversarial situation.

Mr Deputy Speaker, Sir, the hon. Minister has been wise enough, I believe, to delete a few controversial sections of the proposed new amendments. One important issue brought to light by the democratisation of our economy, and which calls for our attention today is: what is the appropriate role of Government? Should it be in the Employment Relations and Rights Environment? Generally, one will reply that it should not, in any case, give way to interfering, nor to allow for an over control of same with hidden agenda. Mr Deputy Speaker, Sir, the good thing is that our laws do provide us with protection of same. It is quite time that the law be enforced so that employees, in all economic sectors in our Republic, are not deprived of their rights of freedom.

Coming to freedom of association, Mr Deputy Speaker, Sir, under section 32 of the Employment Relations Act, freedom of association, which is the fundamental rights of a worker, is guaranteed under the ILO Conventions, namely, the Convention No. 87 on Freedom of Association and Protection of the Right to Organise, and secondly, the Convention No. 98 on the Right to Organise and Collective Bargaining Convention which have been ratified by Mauritius as mentioned by hon. Soodhun.

In the proposed amendments, Mr Deputy Speaker, Sir, I positively note that there is a will to allow all workers to be unionised through collective agreement even where there is no trade union or bargaining unit. Some may say 'yes' or 'no', but I do think so. Trade unionism remains an indispensable institution for the protection of workers' rights and employment conditions for our country. In the same line, public authorities also, shall not interfere in such a way to restrict the right or impede the lawful exercise of union. However, the strength of trade unions will be greatly enhanced by the extent of their *représentativité* and internal cohesion, their grabs of the pressing issues of macro and microeconomic conditions and the extent to which they can evolve a proactive strategic role for themselves as partners in national development.

Mr Deputy Speaker, Sir, being given that our economy is operating in a vulnerable world of business, it does face a certain degree of vulnerability. Everyone knows that to be true. The new object in these Amendment Bills do provide for conciliation service by the hon. Minister and I think, new section 79(a), constitutes a good thing under this Bill.

Having talked on the conciliation service, I move to the Rodrigues Commission for Conciliation and Mediation. Mr Deputy Speaker, Sir, I extrapolate section 99 of the Principle Employment Rights Act as will be amended, and that is correct. This will bring the status of the President at par with that as established with section 87(2)(a) of the Principle Act.

In line with the Employment Relations Act of 2008, provision is also made at section 99(1)(a) for the establishment of a Rodrigues Commission for Conciliation and Mediation, the RCCM, which has the same function as that in Mauritius. The hon. Minister of Labour, Industrial Relations and Employment is amending section 99(1) (a) where provision is made for the Rodrigues Commission for Conciliation and Mediation to change the status of a President from a part-time basis to the rank of a full-time President. I have to point out, Mr Deputy Speaker, Sir, that it was wrongly advised in 2008. This amendment will certainly better consolidate and upgrade the RCCM to fulfil its obligation for the betterment of labour disputes between employees and employers in Rodrigues.

I put on record the present excellent works being done by the present President of the RCCM in the interest of agricultural workers in Rodrigues. In the same line, I do believe also that there should have been an amendment to a change of name of the Rodrigues Commission for Conciliation and Mediation because the word 'Commission' creates confusion to the Commission for Labour and Employment within the Rodrigues Regional Assembly. I do hope the hon. Minister will take note of that. However, Mr Deputy Speaker, Sir, it is worth noting that it is only with the appointment of members of this present Rodrigues Commission in April last year by the actual Regional OPR Government that a programme of work has been worked out and established to the satisfaction of aggrieved workers and employers in Rodrigues.

Mr Deputy Speaker, Sir, having gone through the objects of the Employment Rights (Amendment) Bill, I have noted one or two things. It is the innovative and challenging new directions in the applicability of certain provisions of the Bill. Again, through its historical bearing, the proposed amendments do concern employees and employers of our entire Republic. Mr Deputy Speaker, Sir, one of the critical things was how we get the relationships right between those who are on collective agreement and those who are on individual agreement. It is also important to point out that employers should not be prevented from providing all employees with the same terms and conditions of employment so long as the bargaining has been carried out in good faith. Certainly, the amendments come to regulate the regime of fixed term contracts of employment to prevent employees from having recourse to such contracts abusively.

Mr Deputy Speaker, Sir, I know the experience of jobs scarcity where job seekers face, what I call, unacceptable languages from employers. We have been facing with : *'si to pa envi travay, ena mille*

*dimounn dehor ki pe attann et ki kapav vinn fer travay la dan to plas*'. This is a sort of common language used by some employers, and I believe this sort of language should be punished by law in the interest of employees and job seekers. It is right that the amendments support the promotion of best practice so that employers can use the correct procedure towards employees.

Coming to personal grievance issues, especially the procedural requirements for dismissals and disciplinary actions irrespective of what legislation we have, there will always be personal grievance arrangements. Section 37(6)(b) of the Employment Rights Act -

“Subject to section 39B(2), where an employer terminates the employment of a worker, he shall, on the date of the termination of the employment, give written notice of that fact to the Permanent Secretary.”

Mr Deputy Speaker, Sir, I think in a modern and innovative way, this amendment could provide that the employer before terminating the employment of a worker, shall, before the date of termination of the employment, give written notice of that fact to the Permanent Secretary. This is in order to protect the employee.

Mr Deputy Speaker, Sir, I think I have to congratulate the hon. Minister for the historical move to insert the Creole and French written contracts in the schedule. Employees will have the opportunity to gain full understanding of the contract's terms and conditions. I have witnessed a terrible example where the stipulated terms and conditions written in English have never been fully explained to employees thus leading to ignorance. Mr Deputy Speaker, Sir, it is the recent controversial case of 243 general workers severely criticised by the Director of Audit, formerly employed on a contractual basis by the Regional Assembly in Rodrigues, who have been exploited as a matter of ignorance, mainly by irresponsible politicians in Rodrigues. Allow me, Mr Deputy Speaker, Sir, to put this on record, to enlighten the House about this issue. It was clearly stipulated in one clause of their contractual agreement, that I quote –

“Your employment will be on a purely temporary month to month basis for a period of up to twelve months and liable to termination by one month notice on either side and will not give you any claim to permanent appointment in the Government service. The employment may be terminated without notice or compensation in *lieu* of notice in the event of incompetence, misconduct or insubordination”.

This is simple and crystal clear English, Mr Deputy Speaker, Sir. The workers were asked to sign this in their contractual agreement to secure their jobs which changed status from a yearly to a month to month contract and there, Mr Deputy Speaker, Sir, I have to say for the benefit of the House, certain politicians by the prejudice of politics failed to explain the exactness of these conditions. Instead they

exploit them for their ignorance simply for political gains in quest to win elections. They keep telling these poor persons that they should have been employed on a permanent basis in the public service by the present Regional Government. Unbelievable! Ironically, Mr Deputy Speaker, Sir, they were same politicians or former Governors of Rodrigues who were in power, who endorsed the same contractual agreement. Mr Deputy Speaker, Sir, I thank the hon. Minister with the terms and conditions of a contract written in Creole or French - such problems as faced by the 243 general workers for ignorance will no more be an issue to worry at and I thank him for that.

Mr Deputy Speaker, Sir, the new clause 8 A will call employers to treat properly workers for the terms and conditions for meal allowance. These have often been ignored by many employers in this respect to employees to what we call in Creole – *pé fer l'économie chandelle lor roche chaud*. To be only profit-driven and it is good that the hon. Minister is bringing amendment to that section. Clause 11 with amendment to section 27 and clause 28 with amendment to section 49 brings justice to worker to be entitled for annual leave and sick leave which is new to the legislation. The paid annual and sick leave which is subject to workers reckoning more than six months, but less than 12 months continuous employment and to part-time workers reckoning more than 12 months service governed by a remuneration order. Very good!

This is a positive step ahead for pregnant women also offering some protection for them before and after child birth. Coming to end of year bonus Mr Deputy Speaker, Sir, my question with regard to new section 31(a) sub section (1), entitlement of end of year bonus for workers employed in a year to end of year bonus is as follows –

What is the status for employees who have been on a month to month contract for a period of 10/11 or 12 months consecutively with the same employer?

Does the law provide for an answer as may be stipulated by section 2A of the same section 31A, where every worker who takes employment during the course of a year or should there be any amendment somewhere. I am not quite sure, but I hope that the hon. Minister will clarify this later on. This is also, Mr Deputy Speaker, Sir, where I will propose that section 31A (2) (b) should be amended by deleting the following words - 31 December in that year. Why?

By replacing it with - 20 December in that year bearing in mind also that the worker has been in employment for at least 11 months as I have proposed. This will tally with section 31A(3) which requires payment of end of year bonus to worker not later than five clear working days before 25 December of that year. This is clearly spelt out in sub section 3 and that is why I am asking to look into the possibility for this amendment.

Concernant les licenciements, M. le président, la section 39 (b) est intéressante vu la disposition relative à la sécurité de l'emploi qui protège les travailleurs contre les licenciements abusifs. En présence d'un licenciement sans motif, valable, plusieurs types de sanction peuvent apparaître adéquats d'intégration, dommage et intérêt, avec ou sans limitation et les représentants de travailleurs doivent être consultés et l'autorité compétente notifiée en cas de licenciement collectif pour motif économique. Il y a certains abus à ce niveau par rapport à certains employeurs, M. le président, et c'est bien qu'une autorisation préalable de l'état est requise et l'état simplement doit agir comme un garant des travailleurs et là la suppression de l'autorisation administrative préalable au licenciement économique présente les avantages suivants qui sont intéressants -

- (i) Un délai de réponse plus court;
- (ii) Une meilleure adaptation de l'entreprise à la réalité économique du pays et la richesse d'une solution négociée comme elle est stipulée.

Coming to the workfare programme, Mr Deputy Speaker, Sir, provision has been made at section 41(1) of The Employment Rights Act for the establishment of Workfare Programme. The amendments proposed by the hon. Minister to extend from seven days to 14 days. The period within which a worker whose employment has been terminated can make an application to join the Workfare Programme - this is supported. This measure will give the worker enough time to fulfill the administration procedure in case of termination of contract, but the problem remains; the situation for workers who have a work for determinate duration mostly on a month to month basis, consecutively and they are not entitled to this programme. For example, a company may renew the contract of a worker for say 10 months consecutively, and then the workers are not entitled to the programme, if I am quite right, and I think this is not correct. Fortunately, there is the Human Resource Development Council which section 44 (4), transition and employment benefit of a principal act provides for the HRDC, the Human Resource Development Council and it is worth noting, Mr Deputy Speaker, Sir, that it took Rodrigues four years since 2008 for the setting up of a branch of the Human Resource Development Council for training and re-skilling scheme in Rodrigues. There again the former regional Government did not find it important to establish same and they failed to do so. I thank the hon. Minister, Dr. Bunwaree, the Minister for Training and Skills and others as a partner who came to Rodrigues to inaugurate same last year in the presence of the new Regional Executive Council. This is a positive move ahead.

Mr Deputy Speaker, Sir, section 46 (3B) stipulates that no entitlement for admission to the Workfare Programme, if proceedings are before the court. This poses some problems and I think hon. Uteem also raised that point.



Mr Deputy Speaker, Sir, my question is what will be the duration of the court proceedings? No one knows. We all know how long it takes for our Court to deliver rulings and I believe the law should have also been amended to avoid the sole discretion of the court to decide the time frame, and that the time frame shall be clearly defined in the law to avoid long awaiting time by those people who have their cases before the court.

Mr Deputy Speaker, Sir, one component that needs further consideration is the period of 12 months in employment for a worker. We all know that basically many contractual employees do not technically work for full 12 months in a year. For example, most of the working sites start in the month of January and may end in at the first or second week of December. It is a fact. In that case, I propose for a review of the issue of the 12-month period, and that it be replaced by at least 11 months in the interest of employees.

Mr Deputy Speaker, Sir, the objects of the Employment Relations (Amendment) Bill create a legal framework for the fixed term of contracts of employment to prevent employers from having recourse to such contracts abusively - I mentioned that before. But what I want to say is that we all know that there is considerate abuse by some employers in that connection. For example, in the hotel industry in Rodrigues, I have just been made aware that the salary of workers is being effected weeks after normal paydays repeatedly, Mr Deputy Speaker, Sir. In that particular case, salary for December 2012 was effected on 08 January; for the month of January, payment was effected on 13 February together with about Rs1,200 to Rs2,000 cut-off for two days' non-payment for a non-agreed strike against the abuse of their rights by the employer.

On the other hand, Mr Deputy Speaker, Sir, the law does not provide clearly for any sanctions against the employers who have committed, what I would say, a fault against these employees' rights. I think it is not quite clear in the law, if I am not mistaken. *Actuellement aussi, M. le président, il y a d'autres compagnies privées qui ne respectent pas les conditions de paiement des sous-contracteurs. Certains paiements sont faits avec plus de deux mois de retard.* Certainly, they will be taken to task shortly by the Commission for Employment and Industrial Relations. I am relating to some cases in Rodrigues.

M. le président, je souligne que le meilleur moyen d'éviter des licenciements pour motif économique est d'avoir des entreprises performantes et concurrentielles, comme soutenu par l'honorable Dr. A. Boolell dans son discours précédemment. Revenons sur certains points précis concernant Rodrigues, M. le président. J'ai rencontré des syndicats à Rodrigues, comme je l'ai mentionné, pour éclaircir des zones d'ombre concernant ces amendements. N'empêche qu'il y a encore lieu de faire un peu de lumière sur certaines provisions. Les syndicats déplorent le manque de consultations vu la réalité

différente de Rodrigues et celle de Maurice. Les syndicats remettent en cause la transparence des décisions, et c'est aussi un système où chaque institution a sa place, avec des rôles et missions clairement définis pour que le public s'y retrouve, et la classe travailleur aussi. Et là, M. le président, j'ai reçu une lettre de ces syndicats. Vu la pertinence de ces amendements, les syndicats, au nom de la classe travailleur de Rodrigues, demandent encore la tenue d'une session de travail conjointement avec le ministère, les employeurs, les travailleurs et le Bureau international du Travail pour le manque de consultations sur le plan local concernant ces amendements. Ce sont leurs souhaits, que je crois qu'il faut quand même prendre en considération.

M. le président, moi j'adhère aux droits du travail qui assurent une protection des travailleurs en tenant compte de son impact sur l'efficacité économique et la productivité pour le pays, aussi bien que l'entreprise directement. Je crois que l'intention du ministre est d'apporter un certain équilibre entre les intérêts des travailleurs et ceux des employeurs, ainsi que leurs relations. Par contre, ce qui suscite quelques réactions c'est ce droit fondamental et acquis des droits du travail et des travailleurs. C'est là l'importance de consolider l'élément de confiance entre tous les partenaires. Je crois que le ministre a quand même raison d'appuyer l'impact de l'efficacité économique contre toute tentative des syndicats. Il promet la confiance entre les travailleurs et les employeurs si elle est appliquée d'une façon transparente, correcte et bien. Mais, nous sommes dans une démocratie. Que peut-on faire?

M. le président, la liberté syndicale de constituer ou d'adhérer librement à l'organisation de leur choix doit continuer à être garanti aux employeurs et aux travailleurs. La nouvelle clause 29(1) B (a) stipule que -

*“to join only one trade union of his own choice in the enterprise where he is employed or his bargaining unit..”*

*Que je considère contraire à cette liberté. J'ai des réserves. Only one trade union. Shall we maintain the words 'a trade union' or replace it by the words 'only one'? I don't really get the insight of these amendments, but I hope the hon. Minister will clarify this question of only one trade union later on.*

M. le président, je suis d'avis que les employeurs et les travailleurs doivent jouir de cette grande autonomie dans leurs relations mutuelles. S'ils le souhaitent, ils peuvent faire appel à l'État en cas de désaccord. Cette autonomie est favorable à la stabilité des relations professionnelles, très importante pour le pays. Mais nous savons très bien combien les employeurs, je redis, abusent de cette relation pour exploiter les travailleurs. C'est là que je salue la nouvelle clause 79 (a) qui donne cette possibilité, à la requête des parties concernées, dans l'esprit de démocratisation des relations industrielles, de faire appel à l'État.

M. le président, je souligne que les organisations des travailleurs et des employeurs doivent être libres de décider à quel niveau elles veulent mener leurs activités, notamment en matière de négociations collectives. Les organisations des employeurs et des travailleurs doivent continuellement être consultées lors de l'élaboration des politiques économiques et sociales, y compris des programmes d'ajustement structurel, comme a été le cas pour le nouveau rapport du PRB. Je ne vois pas par conséquent nécessaire d'améliorer le fonctionnement des dispositifs tripartites de consultation sur les questions sociales et économiques importantes. Mais cela, certainement, influencera des réflexions nouvelles vers l'avenir en ce qu'il s'agit de la négociation et l'application de ces amendements et de ces deux lois.

Mr Deputy Speaker, Sir, I won't go any further. To conclude, that will be, in brief, my contribution and support to the positive amendments, and to have raised concerns for those that required further scrutiny.

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

(9.28 p.m.)

**The Minister of Business, Enterprise and Cooperatives (Mr J. Seetaram):** Mr Deputy Speaker, Sir, allow me to seize this opportunity to congratulate my colleague, the hon. Minister of Labour, Industrial Relations and Employment, for introducing this Bill to the House.

The proposed amendments to our labour laws aim at better regulating the interests and relationship of important shareholders in the economic process, that is, our employees and employers, and this Bill has undertaken the delicate mission of juggling between employer and employee satisfaction. This is a demanding task. To do so, hon. Mohamed has had numerous consultations with local trade unions and the International Labour Organisation, which is highly commendable. All the provisions brought forward today are results of these consultations.

In these times of economic slump, where economies around the world are struggling to keep their heads above the water, it would be irresponsible and suicidal for a Government not to tackle efficiently labour disputes or all types of controversies, whereas our solution is negotiation, as pointed out by the hon. Minister of Labour, Industrial Relations and Employment, and this Government believes in tripartism. Indeed, Mr Deputy Speaker, Sir, business, labour, State affiliations within the economy should each act as a social partner to create economic policy through cooperation, consultation, negotiation and compromise.

Mr Deputy Speaker, Sir, allow me to touch upon the impact of this Bill on the SME and Cooperative Sector, which are limbs of my Ministry. The main challenges before us are to democratise our economy, promote inclusive growth and promote sustainable enterprise. SMEs, including

cooperatives are important actors who have a significant share in our GDP which is around 37% and employing no less than 250,000 people directly and indirectly, that is, one fifth of the population.

The appropriate strategy is to simultaneously ensure competitiveness of our enterprise and satisfaction of our employees. Indeed, employees' satisfaction is essential to the success of any business and one of the aspects which I am particularly satisfied is with the section 2 of the Employment Rights Amendment Bill, whose aim is to regulate the fixed term contract of employment so that workers won't see their contract repeatedly terminated before one year, then being renewed after a break so that they don't get any refund for sick leaves, causal leaves, etc.

I am glad that this Bill corrects this inhumane situation and also it creates a legal framework for the operation of shift work by limiting the maximum numbers of working hours per day and the maximum numbers of working hours per week. This altogether, Mr Deputy Speaker, Sir, comes at a juncture where it formalises *le secteur informel*. It gives the informal sector, as we say, a legal structure. It has a structure, firstly, where the employee has a contract of employment. He is aware of the number of hours that he is going to perform per week or in a month. Further, that particular employee is aware that, if in a scenario where he works more than six months, but less than twelve months, he is granted a paid annual sick leave and, secondly, in the event that there is a disciplinary committee, he will obtain a fair disciplinary committee, not the usual prototype where you have a disciplinary committee just put forward so that the employee runs through a procedure and is sacked at the end of the day. Here, there is an independent and fair disciplinary committee and also the issue of reinstatement of the employment. The concept of reinstatement has shed a new light in our labour law.

I would wish to point out also that we will have the informal workers, like a cook, a cleaner, a private driver, or even a gardener and all of them would have the opportunity of getting a contract of employment, that is, a legal scheme of duty which they can be proud of. I believe it is an advancement; I don't think that with the introduction of such a piece of legislation we can call that coming from a '*ministre patron*'. Not at all, only the contrary!

I would also mention the aspect of the cooperative model. Typically the cooperative model does not have any great difficulty in abiding with the labour laws.

I, therefore, welcome the proposed changes and the cooperative sector by definition of value-based enterprises which operate for the benefit of their members and the community at large. In most cases, employees of cooperatives are members of the societies who would consequently wish to have an industrial relationship which is more humane and cordial, whereas in the SME sector the scenario is different. The SME operates with a relatively small labour force and are heavily affected by a labour

turnover and the whole process, especially the production and marketing system, suffer severe blows with dismissal, even at some point, of one employee.

With such a legislation that has been brought forward, it only strengthens the right of the employee and this does not come from a '*ministre patron*', Mr Deputy Speaker, Sir.

Therefore, SMEs who are development-oriented have a strong interest in abiding by labour laws and in creating and maintaining good industrial relations. These amendments, Mr Deputy Speaker, Sir, will minimise job losses, thereby keeping unemployment at bay and the ideal formula for SMEs to create a greater synergy between employers and employees so that production as well as distribution of its benefit would be done in an optimum way which will ensure survival and growth of SMEs in the medium and the long run.

Ideally, Mr Deputy Speaker, Sir, we would wish to encourage employees to contribute towards the share capital of their enterprises, promote the concept of workers' participation. This will be in line with our democratisation project and will ensure prosperity for all.

On the other hand, Mr Deputy Speaker, Sir, we also encourage workers' cooperatives that also may encourage a change in the employer and employee relationship, that is, of a shareholder and member relationship.

I wish to conclude, Mr Deputy Speaker, Sir, that we shall enforce the capacity of SMEs and cooperatives, not only to comply with the labour laws, but also to strive for favourable industrial relations which is a pre-requisite to development of the economy. We also wish that SMEs and cooperatives graduate to higher levels concerning the aspect of industrial relation.

On my ending note, I would state that such a piece of legislation and all the aspects that I have mentioned, the contract of employment and all the booster for the employee, the leaves, the fairness for the disciplinary hearings, it only acts as an empowerment for the employee and not at all this can come from a '*ministre patron*', because it can only can come from a '*ministre des travailleurs*'.

Thank you very much.

(9.37 p.m)

**Mr V. Baloomoody (Third Member from GRNW & Port Louis West):** Mr Deputy Speaker, Sir, there is no doubt that we are discussing an important piece of legislation and amendments to an important piece of legislation.

We, on this side of the House, totally disagree with the way Government has handled this file. There have been amendments and amendments; amendments even after Second Reading. Not later than yesterday, we were in our meeting and amendments were circulated. It shows the disregard, the disrespect that this Government has, against not only the hon. Members of Parliament, but also the 500,000 or so workers outside there.

Can you imagine that some trade unions have not had an opportunity to look at the amendments which were circulated yesterday? We received it yesterday at 07.00 p.m. and this Government wants us to believe that they have at heart the interest of the workers? No way!

History repeats itself, Mr Deputy Speaker, Sir. In 1973, we had a Labour-PMSD Government. What labour law did we have? The IRA, the POA to crush the struggle that the workers were leading there! That was in 1973.

Once again, in 1988, when we had the Labour-PMSD Government, what did we have? Again, a law which was passed where the only party in that tripartite were the *patrons* who were happy! The Opposition were against, the unions' outcry outside, and today, history repeats itself, we are having the outcry outside and there is only one side of the tripartite...

*(Interruptions)*

**The Deputy Speaker:** Order, please!

**Mr Baloomoody:** ...or two sides of the tripartite who agree with this is this Government and *grand patron!*

*(Interruptions)*

If there are two parties who agreed with these amendments, it is this Government and *grands patrons* and not the trade unions, Mr Deputy Speaker, Sir, not the Opposition and not the workers!

**The Deputy Speaker:** Hon. Members, I will request you not to interrupt the hon. Member during his intervention. Hon. Minister Jeetah! Hon. Assirvaden! Because so far there have been no interruptions during the intervention of any hon. Member so, I will have the same rules implemented. Yes, hon. Baloomoody, please go ahead.

*(Interruptions)*

**Mr Baloomoody:** 1973, 1988 and 2008 same Government, same approach to the workers and, of course, take advantage of the division in the trade union sector. We remember in 2008, there was a division among the workers. The Government rushed in to pass the law and today ...

*(Interruptions)*

Shut up! *Alle mett to lunette ta. Bann volères!*

**The Deputy Speaker:** Hon. Baloomoody, please take your seat.

*(Interruptions)*

**Mr Baloomoody:** *Mette ça dehors; alle vann lunette do.*

*(Interruptions)*

**The Deputy Speaker:** Hon. Hossen, I am calling you to order and I don't want you to interrupt the hon. Member.

**Mr Baloomoody:** Today, we have the same...

*(Interruptions)*

**Dr. Jeetah:** With your permission, Mr Deputy Speaker, Sir, on a Point of Order, the hon. Member uttered the word “*volère*”.

*(Interruptions)*

**Mr Baloomoody:** I maintain and I withdraw.

*(Interruptions)*

There is a ruling from the Speaker; hon. Ms Deerpalsing said it. She maintained.

**The Deputy Speaker:** The hon. Member did utilise the word and he is withdrawing.

*(Interruptions)*

**Mr Baloomoody:** I withdraw and I maintain it. I maintain that I utilised the word “*volère*” and I withdraw it.

**The Deputy Speaker:** The final word is that you are withdrawing.

**Mr Baloomoody:** *Pardon!*

**The Deputy Speaker:** You are withdrawing finally.

**Mr Baloomoody:** Withdrawing the word, which I maintain I used “*volère*”.

*(Interruptions)*

So, after having said that we disagree with the procedure; the approach used by the Government - I won't blame only the hon. Minister because all these have gone through Cabinet. So, they were not considering, they were not caring, they were not aware what was going in Cabinet. So, they came with amendment, amendment and amendment. So be it!

Now, Mr Deputy Speaker, Sir, I have listened carefully to the speech of the hon. Minister and he wants us, at the outset, before entering into the details of the amendment, to paint a serious picture, apparently, there is fire in the cockpit. There will be general strike in the country. All the important sectors of the economy will be at its knee. And this is why we have to rush in urgently with this Bill. That was said on the Second Reading, a fortnight ago, and we had to plead to postpone. We asked for two weeks, we could not get two weeks. The hon. Leader of the Opposition said, the hon. Prime Minister said we will move only for one week postponement because there were so many big problems outside. If we don't vote this, the country will go to its knee and I am glad that the opinion of the hon. Minister, my hon. friend is not shared by a Member of the Government. Let me read what one Member of the Government had to say. After having been asked a question about the Industrial Relations Act, he said -

“However, what I think is unfortunate is that the clash of ego between two men is being carried over into this very important debate.”

And for the first time I will share; I agree with the hon. Member. I may be wrong, but no. I don't think Shakeel - referring to the hon. Minister, of course - is right when he talks about a repeat of 1970s. And I don't think it was necessary to be so personal in a debate which should strictly be about substance and not about malingering characters.

*(Interruptions)*

So, even on the other side, they don't agree with the approach that Government is taking, but, unfortunately, they don't have the courage to say it in this House, because her name is not on the list of *orateurs*.

*(Interruptions)*

**The Deputy Speaker:** Hon. Ms Deerpalsing!

**Mr Baloomoody:** She will say it out there. Go and say it for publicity!

**The Deputy Speaker:** Hon. Ms Deerpalsing, please do not interrupt the hon. Member.

**Mr Baloomoody:** Anyway, we will see how she will vote later. Now, this was what the Minister said and it is unfortunate that on such an important issue, the hon. Minister has taken side when it comes



to the union. As a Minister of the Republic, he should have done his effort to ensure that there have been consultations with all the trade unions. We have been meeting the trade unions recently, myself, the hon. Leader of the Opposition and my colleagues who are going to take part in the debate and they have informed us. One has been invited and the other was on the day of the invitation apparently he had to go to Court to furnish bail because on the day the Bill was introduced, they were arrested. They did not have any official invitation whatsoever subsequently, official invitation. Perhaps an officer had phoned or what, but official invitation by the hon. Minister ...

*(Interruptions)*

No, if the hon. Minister has sent a document inviting them officially, this can be produced.

*(Interruptions)*

**The Deputy Speaker:** Hon. Minister Mohamed, you will have the time to reply! You will have the opportunity to rebut during the summing up. So, allow the hon. Member to intervene uninterrupted.

**Mr Baloomoody:** I say it again. It is unfortunate that all the trade unions did not receive the same treatment, the same welcome, they were not given the same consideration with regard to this law.

*(Interruptions)*

And this should have been an exercise of paramount importance when we are doing such exercise of amending a labour law.

Now, Mr Deputy Speaker, Sir, when hon. Dr. Bunwaree presented the two Bills, Industrial Relations Act and the Industrial Rights Act, the main disagreement on those two bills were - in fact, there were three, mainly the way employers were allowed to make workers redundant of economic and other technological reason, secondly, with regard to the right to strike and thirdly, right of counsel for disciplinary committees. I must say and it is known that for the last 29 years, I have been associated with trade unions and workers as their lawyers and I know what I am talking about. These were the three main issues, there are others, the cosmetical one but not main one, but this today has not changed. The fundamental remains, we have the same law. It is only cosmetic. The bones are being given to the workers, but the meat has been kept by the baron, *le patron*. And this is what amendment we are having to.

Mr Deputy Speaker, Sir, the hon. Minister of Labour, who did not participate in the debate of the Bill when hon. Dr. Bunwaree presented that Bill although he was a Member. He was a backbencher, but I do not know whether he was a Member of Government. But he did not participated, but has since being nominated Minister, on each and every occasion he meets the workers and on each and every occasion, he

addresses the public on a May day, he comes to stand before the people, telling them, don't worry, I will bring amendment and you will be happy. This is the expectation that he has created all throughout and this is the expectation that, unfortunately, he has not been able to deliver in this amendment. And this is why today there is that outcry outside. And this is why today we, on this side, we are going to oppose the amendment because it does not change anything that was in the law of 2008. To be consistent with ourselves, we will be on the side of the workers and not on the side of the patron and we will vote against this amendment. What the workers are expecting; let's take the basic one. Apparently, there is now reinstatement - workers can ask their right to be reinstated, but reinstated when, when you are being sacked. We know the case of Rehana Ameer - when she was called upon to be reinstated, was she given the same place, the same job? Okay the salary was the same; the work was more or less the same. But was she given the same job? In the case of State Bank, she wanted to be reinstated, hon. Dr. A. Boolell tried to give a helping hand to get her reinstated, has he been successful? So, the power still remains with the employer. Reinstatement, although your life may be hell there but sometimes if you are reinstated, it is with certain conditions. This is why we say this is not a big deal. In many cases sometimes it's better to get your punitive rate, your term of service and go elsewhere than be reinstated, be penalised and be traumatised in the same work back because the patron has the last say. So reinstatement is not a big deal. Compensation should have come and compensation at punitive rate - this is how it should be even in case of redundancy for economic reasons. Disciplinary committee: I heard my friend, who is a lawyer, say that this law now gives you an independent disciplinary committee. Either he has not attended any disciplinary committee while he was at the Bar or if he has he doesn't understand where he was. Disciplinary committee, how it is done today. It is the patron who nominates the chairman. Okay today we are saying it should be independent but in big corporate, they will get a Head from the other departments to come and chair it. What is worse, Mr Deputy Speaker, Sir, right to Counsel is fundamental; right to be defended by a Counsel is fundamental. Today, if an employer suspends a worker, do you know when he fixes a disciplinary committee - at 10 o'clock in the morning on a Friday or on a Monday knowing well that at 10 o'clock on a Monday or a Friday or a Tuesday or a Wednesday, lawyers are always engaged in court? So, once as the worker decides to retain the services of a lawyer is punished because the lawyer will ask for a postponement and he won't get any salaries. You are penalised if you retain the service of a lawyer. This has not changed. They have put now you can come with a lawyer - *auparavant c'était* 'and/or' *maintenant* with a Labour Officer. So again what has changed in the disciplinary committee? What we want is a disciplinary committee which is independent and - it should be in the law - the proceedings of that disciplinary committee should be given to the worker so that he can be challenged in the Industrial Court. Today, you have disciplinary committees which are fake, which are a sham and when we want to question same in the Industrial Court, evidence is not allowed because you don't have the proceedings to

produce; it is not given to the workers. It is cooked, re-cooked and booked by the employer. Now my friend, hon. Seetaram is saying: 'we have put disciplinary committee'. What is new? Nothing. The question of the welfare programme again...

*(Interruptions)*

**The Deputy Speaker:** Hon. Seetaram, you have already intervened.

**Mr Baloomoody:** There are some people in this House who are doing politics to make business. I am not of this type of people. Since I have been there I have been fighting for the rights of people not to make business.

**The Deputy Speaker:** Hon. Quirin, hon. Henry, please no cross-talking!

**Mr Baloomoody:** Now, let's come to the Welfare Programme. Again what do we have? What has changed? Today only if the Permanent Secretary decides to take the case to the Tribunal, then you can go on the Welfare Programme, but many people want to take lawyers of their choice, attorneys of their choice. They want to fight their own case. Why should they be penalised? Again discrimination when it comes to workers every time they want assistance; every time they want legal advisers; every time they want to be protected they are penalised financially, be it at disciplinary committee level, be it at the Welfare Programme level.

Now, we have that famous Division; that Division which has been created with regard to reduction of workforce and closing down of enterprise. So, what will happen now? When the workers were asking for protection not to be made redundant now you are fired first, then asked questions later. This is a principle. You are given a shot first then they ask you questions. Now, the trauma, the moral anguish is on the worker after he has been sacked - and this applies only to those who employ more than twenty workers. Now what happens? Apparently there is a section - reduction of workforce section 39(b)(i)...

*(Interruptions)*

You know I have never been arrested at the custom for having illicit products with me. Tell those people there to keep quiet. I have never been arrested by the custom for bringing illegal products...

*(Interruptions)*

So please shut up. There are consultations between the patron and the workers when it comes to reduction of workforce; consultation - can you have consultation if it is not prescribed in the law how the consultation should be? Can you have consultation if the law does not provide for disclosure of

information? Can you have consultation if the law does not tell the patron that you have to bring your books, your project and then we sit down, we discuss? Just a consultation – what consultation?

*(Interruptions)*

In the European law...

*(Interruptions)*

**The Deputy Speaker:** Hon. Members, please keep quiet!

**Mr Baloomoody:** Consultation - Mr Deputy Speaker, Sir, in other countries, in other jurisdictions, they prescribe the procedure...

*(Interruptions)*

The collective consultation should be in an Act of Parliament if you want a proper consultation; consultation where, as of right, there should be disclosure of information, disclosure of statistics, disclosure of bank statements, disclosure of your programme. This is what consultation is. It is just added in the law consultation and when it comes to the MSPA, can you sit down with them and have consultation? If there was no threat to the strike, there would have not been the deal with the MSPA and the Joint Negotiating Panel. Now can you sit down with the MSPA and have consultations if they intend to have a mass redundancy programme? Don't be a Government of theory, be practical!

I have spoken on the issue of disclosure. Now let us come to the most important amendment, the jackpot to the *patron*. Mr Deputy Speaker, Sir, there was a deal ...

*(Interruptions)*

**The Deputy Speaker:** Hon. Assirvaden, I think you are interrupting the hon. Member. Can't you remain silent?

**Mr Baloomoody:** I am not somebody who can be easily interrupted. Don't worry!

**The Deputy Speaker:** Please, remain silent! Allow the Member to express himself!

**Mr Baloomoody:** They can bark all they want, I won't be interrupted. Don't worry! Thank you for your protection anyway!

Mr Deputy Speaker, Sir, I was talking about this abolition of section 9(2). In 2008, there was a deal with the union and the employer. I am sure hon. Dr. Bunwaree will agree that we should give a limited right of strike to the workers and you know what they got? The right to sack workers on economic reason! This was the trade off: give the workers an opportunity - because not all the workers would like to go on strike - to have a first strike, you do not sack him, but then in return I give you the right to make

them redundant on economic reason. Today, what we are having? Today, after the hon. Minister of Labour and Industrial Relations has given the expectation to the workers, for the last three years, that amendments will come in their interests, this right of strike is being abolished. A right, like many others have said, for which there have been many struggles; struggle by the founder members of the Trade Union in Mauritius, be it the founder members of the Labour Party - not this Labour Party – and the founder members of the MMM. We should not forget that at a certain time, the Labour Party abolished their ideal for trade unions, for workers' protection, for workers' rights and this was taken up by the MMM under the leadership of hon. Paul Bérenger.

Mr Deputy Speaker, Sir, when the workers are sitting before the *patrons*, they are not on level playing field. The *patrons* have their money behind them; the *patrons* have the contract of employment of the staff and of the workers in his pocket. The worker has only his sweat and his knowledge, nothing more. He is at the mercy of the *patron*. This is why he must have the right to withdraw his cooperation. Threaten, if need be - but not necessarily to withdraw – threaten to withdraw his cooperation so that the patron can sit down at the table and negotiate with them. This is what exactly happened recently in the MSPA Joint Negotiating Panel. Had the Joint Negotiating Panel not voted for a strike, there would have been no agreement with the MSPA because, Mr Deputy Speaker, Sir, the right to strike is a human right, not only a fundamental right. The right to withdraw your labour in case of urgency to protect your interests is a human right. International Treaties say so, Mr Deputy Speaker, Sir, and Mauritius has signed many of these international treaties. It begins with the International Labour Organisation Convention on the right to organise and bargain collectively of 1948. There is the question, Mr Speaker, Sir, which is another fundamental right for workers to protect their rights. It is the law which will allow workers and their unions to have solidarity and sympathy strike. This is a right which is recognised by the International Labour Organisation: solidarity and sympathy strike. Mr Speaker, Sir, *l'union fait la force*. If you are on your own, you cannot bargain. The main purpose of joining a union, Mr Speaker, Sir, is to be mutual in times of need. So, this is why I say, by doing away with section 9(2), not only we are giving the *patrons* all the powers with regard to negotiation, but we are depriving the workers of a fundamental tool, a fundamental right.

Mr Deputy Speaker, Sir, the European Court of Human Rights has ruled that the right to freedom of association in Article 11 of the European Treaty must include the right to strike. Some countries in Europe did not want to. The European Court has said that in collective bargaining the right to strike should be included. So, we are saying clearly and loudly, on this side of the House that we are against the amendment, the more so that it removes section 9(2) which is the main tool for bargaining for the trade unions.

Mr Deputy Speaker, Sir, I have listened to the hon. Minister on radio sometimes. He seems to tell the country: “You know, because of this, the country has been paralysed since 2008.” I just want to ask him - I hope in his summing up he will answer: how many legal strikes there have been in this country since 2008? It would have been legal because the law allows it. None! Zero, Mr Deputy Speaker, Sir! This was the pretext to come with a strike, to come to amend the law because we have strikes. The exercise, Mr Deputy Speaker, Sir, of the right of strike is the mark of a free society where discord is accepted as normal and conflict regarded as healthy. You can have a right to strike; you must recognise the difference of others. Strikes may be inconvenient and they may be frustrating. So is the exercise of other human rights. But if you do not want strikes, it is up to the Government to provide a better atmosphere *vis-à-vis* bully employer who can tear up contracts and impose unilateral change to working conditions knowing that the workers have no option, but to accept.

This is why, Mr Deputy Speaker, Sir, I conclude by saying: we make an appeal to Government, appeal will be rejected; we will vote against that Bill, they have the majority in this House, but they do not have the majority out there. The majority are with us out there and we tell the majority out there, “you won’t have too long to wait, time will come when you will get what you want.”

Thank you, Mr Deputy Speaker, Sir.

**Mr S. Obeegadoo (Third Member for Curepipe & Midlands):** M. le président, il y a des moments où la lutte des classes, cette dynamique qui sous-tend les enjeux économiques et sociaux de nos sociétés est mise à nu. Il y a des moments où les masques tombent, où l’Etat qui se prétend neutre affiche ses couleurs, prend position dans la lutte qui, depuis la nuit des temps, oppose capital et travail. M. le président, s’il est vrai aujourd’hui que de l’autre côté de la Chambre je ne vois personne qui aurait été syndicaliste comme le furent les fondateurs du Parti travailliste, je n’en vois pas qui ont été associés aux combats de la classe ouvrière. Chez nous il y a des syndicalistes à l’instar de l’honorable Madame Ribot, de l’honorable Soodhun...

*(Interruptions)*

...de l’honorable Paul Bérenger. Il y a de nombreux avocats...

*(Interruptions)*

qui toute leur carrière durant, à l’exemple de l’honorable Ganoo, l’honorable Baloomoody ont été aux côtés des syndicats, ont fait le choix de la classe ouvrière dans le combat inégal qui oppose les travailleurs aux employeurs, M. le président.

*(Interruptions)*

Mais même s'il...

*(Interruptions)*

n'y en a plus...

*(Interruptions)*

de l'autre côté de la Chambre...

*(Interruptions)*

**The Deputy Speaker:** Hon. Bundhoo, Minister of Health and Quality of Life!

*(Interruptions)*

**Mr Obeegadoo:** I shall not give way!

*(Interruptions)*

I shall not give way unless it is a point of order.

*(Interruptions)*

**The Deputy Speaker:** Go ahead, please!

**Mr Obeegadoo:** M. le président...

*(Interruptions)*

**The Deputy Speaker:** I do not want any hon. Member to interrupt the hon. Member who is intervening !

**Mr Obeegadoo:** M. le président, j'en appelle néanmoins à l'esprit travailliste de ceux qui, à l'instar de l'honorable Deerpalsing, hier encore exprimaient leur soutien aux syndicats de l'industrie sucrière dans le conflit qui les opposait aux employeurs. L'on surveillera tout à l'heure au moment du vote la décision que prendra chacun de l'autre côté de cette Chambre.

M. le président, ces amendements dont nous débattons aujourd'hui, à notre sens, représentent une attaque frontale contre les travailleurs et les travailleuses de ce pays, contre les salariés Mauriciens. S'ils sont adoptés par la Chambre, seront un coup de massue pour les syndicats, pour la classe ouvrière organisée. C'est pour cela que de ce côté de la Chambre, tout au moins pour l'alliance MSM/MMM, nous opposerons un nom catégorique à ces amendements tant dans la forme que sur le fond.

M. le président, les lois du travail sont partout et toujours au sein de nos sociétés capitalistes l'expression d'un rapport de force entre capital et travail. Situons le contexte historique du débat

d'aujourd'hui. Après l'indépendance, la grande agitation dans le monde ouvrier du début des années 70, l'introduction par le gouvernement travailliste alors soutenu par le PMSD de l'IRA, une loi dont la logique répressive est connue de tous, qui fut qualifiée de loi scélérate par la classe ouvrière qui interdisait dans les faits, qui rendait illégale toute grève, et puis deux ans plus tard, le *Labour Act* représentant en compromis un rapport de force entre employeurs et employés avec la montée des syndicats à cette époque. Puis de 73 à 75 le cadre légal évolue peu. Il y a des amendements en 82 au *Labour Act*, par exemple, pour garantir en sus de trois mois, 120 jours de compensation à ceux qui sont licenciés pour des raisons économiques. Mais le cadre légal dans son ensemble ne change pas jusqu'en 2008 lorsque le gouvernement travailliste introduit les deux législations que nous cherchons à amender aujourd'hui, passant par le biais de son ministre du Travail d'alors, le docteur Bunwaree, lesquelles lois représentent ce que tout à l'heure mon collègue l'honorable Baloomoody décrivait comme un *trade off*, un échange. D'une part la reconnaissance d'un droit de grève partiel, théorique mais la reconnaissance d'un droit de grève et, de l'autre côté, en contrepartie, l'abolition de l'obligation faite de se soumettre à un arbitrage obligatoire et surtout la liberté de licencier - pour raisons économiques - accordée aux employeurs, l'abolition du *Termination of Contract Service Board*.

Le MMM, le MSM, l'Opposition d'alors prirent position résolument contre. Il est important de s'en souvenir pour comprendre la logique de notre prise de position aujourd'hui. Déjà, l'honorable Paul Bérenger, en 2008, dénonçait à la fois le procédé, c'est une habitude sous le gouvernement travailliste de forcer le passage à la va-vite de cette loi d'alors en 2008 avec des amendements en dernière minute comme aujourd'hui encore et, d'autre part, le recul que représentaient ces deux lois. L'honorable Paul Bérenger soulignait le fait qu'on avait attendu depuis 1973 et 1975 qu'il y ait une loi progressiste remplaçant l'IRA et le *Labour Act*, à la place l'on a hérité des deux lois en vigueur aujourd'hui avec la disparition du TCSP, avec des changements en ce qui concerne le *severance allowance*, concept fondamental dans nos lois, avec les procédés pour faire grève, très lourds et le rôle résiduel confié au *National Remuneration Board* dans cette logique d'abolition de l'arbitrage obligatoire. Je ne répéterais pas ce que disait alors l'honorable Ganoo, notre *Leader* de l'opposition d'aujourd'hui. Je suis sûr qu'il reviendra sur sa prise de position de 2008 mais, je rappellerai...

(*Interruptions*)

Vous ne perdez rien à attendre, le *Leader* de l'opposition interviendra tout à l'heure. Je pense qu'il était très pertinent lorsque l'honorable Cuttaree, qui n'est plus avec nous au sein de cette Chambre, disait que face à l'inégalité entre capital et travail, face au contexte particulier du faible taux de syndicalisation, au manque de moyens des syndicats que l'Etat avait un devoir d'intervention. L'Etat ne pouvait pas se contenter d'une déréglementation du monde du travail ; d'une déréglementation des relations industrielles



qui jouerait inévitablement en faveur des employeurs, du capital, mais qu'il y avait un devoir d'intervention à travers la loi du travail pour l'Etat. Et il faisait donc l'argumentaire en faveur de la protection pour les travailleurs dans le cas des licenciements pour raisons économiques.

Aujourd'hui, cinq ans plus tard, nous voilà devant une proposition d'amendements. Vous savez que les effets de ces lois ne **se** sont **pas** fait attendre. Il y a eu de nombreuses interpellations parlementaires, depuis 2008, de la part de l'honorable Alan Ganoo, de l'honorable Veda Baloomoody, de l'honorable Reza Uteem et de moi-même, pour essayer de mesurer l'impact de cette libéralisation par rapport au licenciement pour raisons économiques. Les chiffres parlent d'eux-mêmes. En 2009, 4,461 licenciés pour raisons économiques; en 2010, 4,291; en 2011, 5,320, et rien que pour les neuf premiers mois de l'année 2012, 4,800. Bref, de février 2009 à septembre 2012, 18,892 licenciés pour raisons économiques, ne bénéficiant de pratiquement rien en termes de compensation. Aujourd'hui, ils devraient avoir dépassé les 20,000.

Donc, l'on attendait avec impatience ces amendements pour corriger les injustices criantes des législations de 2008. On attendait surtout le ministre du Travail eu égard aux licenciements économiques. L'honorable ministre Mohamed, lui-même, comme le soulignait un peu plus tôt l'honorable Reza Uteem, nous avait habitué à ces dénonciations des abus de la part des employeurs, ici même au sein de la Chambre. Et puis, on a eu droit à ce document qui s'appelait '*Salient Features*'; des amendements à venir, présentés en avril 2012, et qui ne touchaient évidemment pas au droit de grève. Et puis, arrivent les amendements. Ces amendements représentent plus qu'une déception; une trahison des espoirs placés en lui de la part des syndicats et de la classe ouvrière, une trahison des engagements pris; ce qui a suscité un sentiment de colère unanime.

Aujourd'hui, M. le président, même si le gouvernement cherche à tirer profit de la division syndicale, comme en 2008, il y a un refus unanime de la part des syndicats pour les amendements qui nous sont présentés aujourd'hui, parce que ces amendements, je le répète, sont à la fois inacceptables et condamnables, tant dans la forme que sur le fond.

Dans la forme d'abord, à cause de ce procédé incroyable qui fait, qu'à la fin de l'année dernière, un premier projet d'amendement est circulé. Ensuite, en mars de cette année, le 25 mars plus précisément, sont circulés des amendements aux amendements de novembre dernier. Et puis, le 8 avril, sont circulés cette fois des amendements aux amendements aux amendements de novembre dernier, jusqu'à ce que ce matin, atterrisse un dernier amendement aux amendements aux amendements aux amendements proposés en novembre dernier.

M. le président, d'abord il y a là un non-respect des principes bien établis du fonctionnement de cette auguste Assemblée. Lorsqu'un ministre intervient pour la deuxième lecture d'un projet de loi, cela est censé être le point culminant d'un long processus qui commence par un travail de préparation d'amendement avec le concours du parquet, en réponse à un travail préliminaire du ministère, qui fait l'objet ensuite de consultations avec les partenaires sociaux, avant que cette proposition, cette ébauche soit révisée et ensuite présentée au Conseil des ministres, approuvée par le Conseil des ministres, et circulée au Parlement. Donc, lorsqu'intervient le ministre en deuxième lecture, il présente le projet de loi tel qu'il sera soumis au vote à la fin des débats en deuxième lecture, évidemment quitte à ce qu'il y ait des amendements mineurs lors de l'examen en comité du projet de loi. Cette fois-ci, le ministre intervient, et s'ensuivent deux séries d'amendements auxquelles, bien évidemment, il n'a pas pu se référer en deuxième lecture. Nous devons donc, nous, commenter des amendements qui n'auront pas été évoqués évidemment lors de la présentation en deuxième lecture, puisque cette présentation était antérieure aux amendements.

*(Interruptions)*

L'honorable ministre est le seul parmi nous qui pourra intervenir deux fois. Donc, je pense qu'il pourrait, pendant mon intervention, se taire, en attendant qu'il ait l'occasion de parler tout à l'heure.

**The Deputy Speaker:** Just allow me one minute. Hon. Minister Mohamed, you will be the last person to intervene on this piece of legislation.

*(Interruptions)*

I am sorry. I am on my feet. So, you will be able to rebut all the arguments put forward by the hon. Members from the Opposition side. Your reaction at this stage is a little premature.

**Mr Mohamed:** I apologise. I was just trying to avoid the hon. Member making mistakes. So, I will stop.

**The Deputy Speaker:** Hon. Minister, please take note.

**Mr Obeegadoo:** Precisely. And learn your Standing Orders! M. le président, je disais donc...

*(Interruptions)*

**The Deputy Speaker:** Okay, enough!

**Mr Obeegadoo:** M. le président, nous nous posons la question, de ce côté de la Chambre, de savoir ce que cache cette cascade d'amendements aux amendements aux amendements. Est-ce une mystification, cherchant à nous jeter tous dans un état de confusion? Ou est-ce plutôt la manifestation d'un amateurisme sans précédent au sein de cette Chambre? L'on se le demande. De même, dans la forme, nous objectons à la façon qu'a eu le ministre, lors de la présentation en deuxième lecture, de se

focaliser sur une personne, un syndicaliste absent de la Chambre, pour faire son procès derrière le dos. Je me réfère à Ashok Subron.

De ce côté de la Chambre, nous ne partageons pas nécessairement toutes les options idéologiques d'Ashok Subron. Mais nous sommes des gens d'honneur, qui savons très bien que l'on ne s'attaque pas à une personne derrière son dos en son absence. Si l'honorable ministre veut régler ses comptes avec Ashok Subron, qu'il aille le faire en public ou en cour, ou sur un terrain autre que le Parlement, où Ashok Subron ne siège pas. C'est cela aussi l'élégance dont on s'attend d'un ministre de la République, M. le président. Sur le fond, malgré la division syndicale, je le répète, ces amendements sont unanimement rejetés par les syndicats du pays.

D'abord, l'*Employment Rights Act*. Quelques mesures que le gouvernement voudrait nous faire croire positives, progressistes, mais qui, mises en relation avec la menace que font peser les dispositions fondamentales de ces deux amendements, ne représentent qu'une carotte qu'on agite devant les salariés du pays pour les leurrer, pour servir de trompe-l'œil quant au vrai motif de ces amendements.

Le *Employment Rights Act*, sur le fond en lui-même, comporte des dispositions très dangereuses. Je ne suis pas sûr si mon collègue, l'honorable Veda Baloomoody - dont j'ai raté le début de l'intervention - s'est référé à cela, mais j'ai en tête l'abolition du *Job Contractor's Permit*, M. le président, que nous considérons comme très dangereux du côté de cette Chambre.

J'ai écouté la présentation de la deuxième lecture du ministre et je n'ai pas compris quelle était la motivation profonde qui pousserait le gouvernement - à moins qu'il s'agisse de petits copains politiques dont on voudrait libérer de certaines entraves. Pourquoi il faudrait abolir, à ce stade, le *Job Contractor's Permit* qui existe depuis les années 60, et qui vise à réglementer le secteur informel, où, une personne a recours à l'emploi pour accomplir des tâches limitées dans le temps ?

Le *Job Contractor's Permit*, je le rappelle, permet au ministère du Travail de mener des enquêtes appropriées pour considérer l'aspect de la sécurité au travail. Vous savez que le *Job Contractor's Permit* a souvent cours dans le secteur de la construction, là où les accidents au travail sont les plus fréquents. C'est une garantie, c'est une mesure de sécurité essentielle. En abolissant l'impératif du *Job Contractor's Permit*, on ouvre les vannes et tout devient dès lors possible ; ce sera la loi de la jungle en 2013.

Je voudrais, aujourd'hui, ici, très solennellement, au nom de l'Opposition, attirer l'attention de tous les parlementaires de la majorité sur le danger que comporte cet amendement non-expliqué, non-motivé et qui ne pourrait en aucun cas se justifier.

*The Employment Rights Act*, qui, avec ces amendements, pourrait constituer un leurre pour la classe ouvrière de ce pays. Mais, sur le fond, pourquoi sommes-nous opposés par ces amendements ?

Parce qu'ils ne changent en rien les dispositions fondamentales de l'*Employment Rights Act* et de l'*Employment Relations Act*, auxquels nous avons objecté déjà, en 2008 et en 2009 !

Le licenciement économique, je pense que tout le monde est au courant de cela. Je ne vais pas répéter ce qu'a été dit avant moi par mon collègue, l'honorable Veda Baloomoody. En ce qui concerne cette histoire d'avoir à justifier *post facto* les licenciements, nous savons que dans la pratique cela ne sert pratiquement à rien. Pour tous ceux qui, parmi nous, ont été au côté des travailleurs, syndicalistes et avocats, nous savons que cela ne marchera pas et de toutes les façons vous savez que, dans la réalité des choses, le problème restera toujours le même qu'à présent.

L'employé qui ira contester le bien-fondé de son licenciement ne bénéficiera pas du *Workfare Programme* et il restera sujet au jugement que portera le *Permanent Secretary* du ministère du Travail pour décider s'il y a un *prima facie case* permettant d'aller en cour pour contester le bien-fondé du licenciement.

Donc, en ce qui concerne les dispositions fondamentales de ces deux lois, tout autant scélérates que l'IRA de 1973, rien ne change. Les dispositions fondamentales restent les mêmes et pour cela tout comme nous avons opposé le passage de ces lois en 2008, pour être cohérent, il est tout à fait logique que nous opposions aujourd'hui les amendements que nous présente le gouvernement, qui ne change en rien ces deux lois.

Je voudrais, là, dénoncer, M. le président, les larmes de crocodile du ministre, eu égard aux employés de l'hôtel St. Géran. Vous savez, ces employés, nous les avons rencontrés nous-aussi. Les honorables Alan Ganoo, Veda Baloomoody et moi-même, nous les avons rencontrés et je n'oublierai jamais cet ancien employé qui vient de dépasser l'âge de la retraite et qui a travaillé pendant une trentaine d'années au St. Géran. Il nous disait que, arrivée à l'âge de la retraite, il aurait pu, il aurait dû prendre sa retraite avec tous les avantages qui y sont attachés, telle que la compensation qui va avec en proportion avec toutes ses années de service. Mais, il ne l'a pas fait, M. le président, parce qu'il a toujours deux filles à l'Université de Maurice. Donc, il s'est dit, je vais travailler encore un an, deux ans, trois ans, tant que je pourrais le faire, et l'argent que je gagnerai servira pour financer les études de mes enfants, en attendant de toute manière à ce que je prenne ma retraite et que j'obtienne la compensation qui m'est due. Puis, à peine quelques mois après, on le licencie pour raison économique, sous la loi de l'honorable Dr. Bunwaree et du gouvernement Travailleiste. Sous cette loi de l'honorable Mohamed ne modifiant, en rien les dispositions fondamentales, cette personne n'obtiendra rien qu'un mois de préavis. Les amendements - que ce soit claire - que nous considérons aujourd'hui ne changent en rien cette injustice criante que subisse tous ces anciens employés du St. Géran et c'est pour cela que nous dénonçons l'hypocrisie et les larmes de crocodile versées par le ministre du Travail, eu égard aux employés du St. Géran.

**Mr Mohamed:** On a point of order, Mr Deputy Speaker, Sir. The hon. Member has just stated that I am a hypocrite and that I have basically versé *des larmes de crocodile*, which is basically saying that I am a hypocrite. That is very unparliamentarian. I insist that he withdraws that; he is imputing motives. He cannot, as a hon. Member, stand there and say that I am a hypocrite. He cannot do that!

**Mr Obeegadoo:** We are debating policy, and I state, and I maintain that the Minister represents the voice of the employers; he is defending the interests of the employers. This Bill is a danger, it is a threat for the working class of this country and I stand by what I said.

**Mr Mohamed:** I stood up to raise a point of order, Mr Deputy Speaker, Sir, and it is very simple. The hon. Member cannot say that I am a hypocrite and I ask that he withdraws that, the rest he can keep on saying *ad nauseum*; but saying that I am a hypocrite, that is unparliamentarian.

**The Deputy Speaker:** Did the hon. Member call the hon. Minister a hypocrite?

**Mr Obeegadoo:** This is the quotation of the hon. Minister who is calling himself a hypocrite.

**Mr Mohamed:** The hon. Member used the word ‘hypocrite’.

**The Deputy Speaker:** I am sorry; I am simply asking the hon. Member whether he did utilise the word ‘hypocrite’ at the address of the hon. Minister.

**Mr Obeegadoo:** Not that I can recall, Mr Deputy Speaker, Sir. But, I maintain that the stand of the Government is hypocritical.

**Mr Mohamed:** The hon. Member said ‘hypocrite’.

**The Deputy Speaker:** I am sorry! Please, sit down. I am again asking you, hon. Obeegadoo to...

*(Interruptions)*

Hon. Obeegadoo, I am talking to you, please. I am again asking whether you did utilise the word to qualify the hon. Minister.

**Mr Obeegadoo:** Mr Deputy Speaker, Sir, I do not recollect using the term; if I did, I am quite happy to withdraw it. I maintain that the stand of the Government is a hypocritical stand.

**The Deputy Speaker:** That is a different matter.

**Mr Obeegadoo:** It is not a different matter, it is the same.

**The Deputy Speaker:** It is a different matter altogether. If you did use the word ‘hypocrite’ at the address of the hon. Minister, please, withdraw it. It is so simple.

**Mr Obeegadoo:** I have done it.

**The Deputy Speaker:** Please, go ahead now!

**Mr Obeegadoo:** M. le président, sur le fond du *Employment Relations Act*, nous sommes contre parce que c'est très dangereux et, je vais rapidement rappeler certaines clauses auxquelles je ne pense pas que mes collègues, les honorables Reza Uteem, S. Soodhun et Veda Baloomoody, avant moi, se sont référées.

Et je vais me référer à un excellent document qu'a fait circuler la GWF and le *Joint Negotiating Panel* aujourd'hui, je crois, à tous les honorables membres de la Chambre sinon à tous ceux qu'ils ont pu joindre; et qui, nous fait la liste rapidement des problèmes fondamentaux avec cette législation.

And I will lapse into English; maybe it will be easier to comment the law. Section 77, this is the section about the limitation to strike when there is a collective agreement. Mr Deputy Speaker, Sir, this is fundamentally dangerous. The hon. Minister is proposing to amend the law so that when there is a collective agreement, even on issues that have been raised and not settled in the course of negotiations or on an issue which was not raised in the course of negotiations, a trade union can no longer report, go on a strike, because this now concerns any issue. The moment that there is a collective agreement, you can no longer do it and what is very dangerous, as the Unions have pointed out, is that the employers can now sign a collective agreement with a Pro-employer Union that represents less than 50% of the labour force there, which has less than a 50% membership in a given bargaining unit and, therefore, there is a collective agreement that binds everybody and there can no longer be a strike. This is section 77.

Section 67 is another case in point. This concerns the limitation of the report of labour disputes. Now, again, this time the provision of the law is being broadened so that when a collective agreement is in force, and I am quoting -

“A labour dispute on matters relating to wages and terms of conditions of employment which either are contained in a collective agreement or have been canvassed but not agreed upon during the negotiation process leading to the collective agreement or, third, and worst have not been canvassed during the negotiation process except during a period of negotiation for the renewal of the collective agreement.”

So, and I quote here, this document for the Union –

“It eliminates at one go the possibility of ever raising issues and reporting of any labour dispute on any issue upon which no agreement was reached during the course of any collective bargaining process.”

This has never been seen, not even in the IRA, Mr Deputy Speaker, Sir. It was such a strait jacket imposed upon Unions to such an extent that they cannot discharge their normal legitimate function of defending the interest of their members.

Likewise, if we go back to the definition of labour dispute in section 2 of the Employment Relations Act, henceforth, the new definition is now that -

“Labour dispute does not include the dispute that is reported more than three years after the act or omission that gave rise to the dispute.”

Do we understand what the hon. Minister is trying to do there? It means that if there is a condition of employment which has been in force for more than three years and which forms part of a collective agreement, once the three years is passed, you cannot declare a dispute. So, you can never declare a dispute again, concerning that disposition. And if you have a new Union which comes up, which is democratically chosen to represent the employees to the extent that the term of employment dates back to more than three years, it cannot report a dispute concerning that matter. This reaches an incredible level of absurdity and I am surprised that the very able and experienced officers of the Ministry of Labour, Industrial Relations and Employment would have gone along with the hon. Minister to the extent of such absurdity.

The next one, Mr Deputy Speaker, Sir, is section 78. We know that the law imposes a ballot in the case of strike. In 2008, when hon. Dr. Bunwaree presented the Employment Relations Act to the House, he talked about the independence, the autonomy, being given to Unions who can now regulate their own matters and I reread this morning his speech then, and this time around, hon. Minister Mohamed would have it that a Supervising Officer under the authority of the Minister will go and attend the holding of a strike ballot. This is unwarranted, shameful, improper interference in the internal affairs of a Union and cannot be justified by any means.

Section 58 of the Employment Relations Act, Mr Deputy Speaker, Sir, speaks of the variation of collective agreement. On the one hand, it is now proposed that -

“Where a party to a collective agreement which is in force refuses a variation of the agreement, any party may apply to the Tribunal for a variation of the agreement and the Tribunal, on hearing the parties, shall vary the agreement where it is satisfied that the variation is warranted in accordance with subsection (1).”

So, on the one hand, the Union cannot declare a dispute, cannot go on a strike. On the other hand, the employer can, at any point in time, request a variation and it can have its way. You can see, Mr

Deputy Speaker, Sir, why we are so adamant on this side of the House that this is a Pro-Employer and Anti-Union (Amendment) Bill throughout.

Mr Deputy Speaker, Sir, I have nearly finished. There is the section 38 which relates to order for recognition of a Trade Union of workers. In the past, under the law of 2008, there needed to be recourse to a referendum before the Tribunal could reject an application. This time around, the Tribunal without having recourse to a democratic referendum can arbitrarily reject the application for an order for recognition.

*Finally, Mr Deputy Speaker, Sir, the crux of the matter.* Le point le plus fondamental, le plus grave, ce à quoi s'est référé mon collègue, l'honorable Veda Baloomoody, la disposition 9 (2) de l'*Employment Relations Act* qui stipule qu'un ouvrier, qu'un travailleur, se met en grève pour la première fois ne saurait être sujet à des sanctions de la part de son employeur. M. le président, le ministre a cherché à nous faire croire que cette disposition particulière relèverait d'un malentendu, d'un oubli, d'un accident de parcours, qui aurait perduré pendant cinq ans jusqu'à ce que soudain le Ministère du Travail réalise qu'il y a là, problème, et nous présente cet amendement. Selon les syndicats que nous avons consultés, cette disposition avait été proposée par le BIT pour inscrire dans notre loi, le droit à la grève, mais que face à la résistance farouche des employeurs, cette disposition fût formulée de telle manière à ce qu'elle soit très limitée, seulement la première grève, qu'elle soit sujette à bon nombre de conditions. Cette disposition n'a jamais été utilisée. Mais elle était le premier pas, un pas certes limité, insuffisant, mais qui reconnaissait aux travailleurs le droit d'évoquer une menace de grève dans le cours normal des négociations.

Vous savez, M. le président, aucun travailleur ne se met en grève par plaisir. Mais ce recours au droit de grève est un droit fondamental et un outil essentiel dans le processus de négociation. Sans la menace de grève, jamais au sein de l'industrie sucrière, serions-nous parvenus à un accord à la onzième heure l'an dernier. Le droit de grève est un droit fondamental pour lequel se sont battus tous les précurseurs et les fondateurs du Parti Travailleiste. Willy Mootoo, en 1922, tentant pour la première fois de créer un syndicat, se faisant ignorer, rejeter par le pouvoir colonial d'alors. Toute la lutte des tribuns travailleistes, d'Emmanuel Anquetil, de Maurice Curé et de Ramnarain, c'était par rapport à ces deux principes: de la liberté de se syndiquer, la liberté d'association et, *the other side of the coin*, le droit de grève fondamental.

En fait, le Parti Travailleiste fut fondé dessus et, aujourd'hui, -même je ne pourrais pas dire ce même Parti Travailleiste - ceux qui se réclament du Parti Travailleiste qui viennent trahir ce principe fondamental. Vous savez, M. le président, en écoutant la thèse du ministre du travail qui essayait de créer une psychose, la grève menace, il y aurait grève au sein de l'industrie sucrière, du port, du secteur du



transport, je me suis rappelé ces années où Anquetil se faisait déporter à Rodrigues avec son fils par le pouvoir colonial, par le Gouverneur Clifford à cause de cette soi-disant menace que représentait l'agitateur communiste qui était Emmanuel Anquetil, selon le pouvoir colonial. Je me suis souvenu du sort de l'honorable Paul Bérenger au début des années 70 et lorsque les lois répressives sont votées par le gouvernement Travailleuse d'alors avec le soutien du PMSD d'alors, n'était-ce pas la même chose ? La psychose à propos des grèves, le danger de l'instabilité et, aujourd'hui, c'est exactement la même chose que nous vivons à nouveau. Cette disposition 9 (2) que l'honorable ministre cherche à abroger est - j'insiste là-dessus - une remise en question du droit de grève qui représente une liberté fondamentale pour tout employé, qui représente l'ultime recours essentiel pour la classe ouvrière, M. le président. C'est pour cela que nous estimons extrêmement dangereux ce que cherche à faire le Parti Travailleuse aujourd'hui.

M. le président, je vais terminer en disant que pour les raisons que j'ai énoncées, nous ne pouvons qu'opposer de manière catégorique et implacable à ces amendements. J'en appelle une dernière fois à la conscience travailleuse, des députés de l'autre côté de la Chambre. Il est rare dans l'histoire d'un pays que nous débâtons sur le fond des lois du travail. Depuis l'indépendance, cela fait plus de 45 ans, il y a eu les lois de 73/75, il y a eu les lois Bunwaree de 2008 et, aujourd'hui, pour la troisième fois depuis l'indépendance, nous allons débattre des dispositions fondamentales de notre droit du travail. Ce sont des moments historiques ; ce sont des moments solennels où chacun est appelé, face à l'histoire, face à sa conscience, à assumer ses responsabilités. Au delà de la loyauté vis-à-vis du gouvernement, je demanderai aux députés de l'autre côté de la Chambre de réfléchir aux dispositions précises, particulières, de ces amendements et de faire très attention au moment du vote car l'opinion publique, la classe ouvrière, les syndicats et les salariés de ce pays ne pardonneront pas la trahison que constituera l'acte de voter ces amendements. Pour notre part, au sein de l'alliance MMM MSM, nous assumerons pleinement nos responsabilités face aux travailleurs et aux travailleuses et à l'histoire de notre pays.

Merci, M. le président.

(10.55 p.m)

**The Attorney General (Mr Y. Varma):** Mr Deputy Speaker, Sir, I take this opportunity to congratulate my good friend, the hon. Minister of Labour, Industrial Relations and Employment for proposing amendments to the Employment Rights Act and the Employment Relations Act; these amendments being long awaited by all the stakeholders concerned.

In fact, hon. Members of this House will recall that these two Acts which have repealed and replaced the Labour Act of 1975 and the Industrial Relations Act 1973 respectively were enacted in 2008 and came into operation in February 2009. Thereafter, following representations from stakeholders

concerned, namely, the workers organisations and trade unions, Government took the decision in November 2010 to set up a High Powered Committee to consider and examine amendments to be brought to these two Acts.

Mr Deputy Speaker, Sir, I was a Member of that High Powered Committee and it goes without saying that when a new piece of legislation is being enacted or existing ones are being amended, it is very difficult to fully satisfy the expectations of all parties concerned and this is probably due to conflicting interests which may be in contention. Mr Deputy Speaker, Sir, when it comes to employment legislation, the task is even more strenuous having regard to the diametrically opposed positions of the main actors concerned, namely workers and workers organisations on the one hand, and employers and employers organisations, on the other hand.

Mr Deputy Speaker, Sir, I am, therefore, sure that hon. Members of this House do realise the difficult task that the Government and, particularly, the Minister of Labour, Industrial Relations and Employment, has had in bringing about these amendments.

Mr Deputy Speaker, Sir, it is being proposed to create a legal framework for shift work by limiting the maximum number of working hours per day to 8 hours. Members of the House will surely note that in the Bill introduced in December of last year, the proposed number of working hours per day on shift work was 12. But following representations made by trade unions, it is now proposed to reduce the number of working hours per day to 8. Presently, the Employment Rights Act does not provide for a limit on the number of hours work per day for shift workers. It simply allows the worker and the employer to agree on the number of hours of work to be performed in the shift subject to a maximum of 90 hours per fortnight. It is as per section 14(8) of the Employment Rights Act. Hon. Members will notice that the proposed amendments put an obligation on the employer to schedule shift work on a monthly basis and above all, to hand over to the worker, the schedule at least one week before the schedule is due to be put into place.

Mr Deputy Speaker, Sir, this is indeed a very positive measure. While this will surely enable workers to organise the life outside work, that is allow them to balance the lives at work with their family and social activities and also help the employer to organise the work in a more organised and timely manner thus minimising last minute disruptions. Mr Deputy Speaker, Sir, this proposal is surely going to lead to a win-win situation for both employers and employees.

Another new measure that is being proposed in the Bill is the payment of an allowance of 10% of the basic wage for work performed during night shift work. So far payment for an additional allowance was generally prescribed for piece rate work, that is, the additional payment was related to productivity.

This newly proposed measure seeks to compensate the disabilities associated with night shift work. No doubt this additional financial reward will bring satisfaction to workers' concern and will contribute to make work during night shift more attractive and more acceptable to a large majority of our work force, especially at the present juncture, when sectors like BPO and call centers, for instance, which operate on shift system and are proving to be vital for the contribution to our economy.

Mr Deputy Speaker, Sir, allow me to address the proposal on maternity benefits. Under the Labour Act now repealed women were only entitled to 12 weeks maternity leave on full pay for those reckoning 12 months' continuous service with the same employer. No payment for maternity allowance was provided for. With the coming into force of the Employment Rights Act in 2009, a maternity allowance of Rs2000 was introduced for those reckoning 12 months continuous service. So, female workers started to be eligible to an additional payment of Rs2000 after confinement. Now, the Government is proposing to increase this allowance to Rs3000 which is a very commendable measure indeed.

Mr Deputy Speaker, Sir, what is more interesting is that this maternity allowance of Rs3000 is being extended to all sectors of the economy irrespective of the lesser amount prescribed in the Remuneration Regulations. Some of these regulations, Mr Deputy Speaker, Sir, still provide for the payment of a sum as insignificant as Rs300 for maternity allowance. In this salt manufacturing industry and the tea industry for instance, the allowance is Rs500. Mr Deputy Speaker, Sir, for female workers in these sectors, the proposed increase in maternity allowance is very significant and this will surely alleviate the burden in times of need.

Mr Deputy Speaker, Sir, additionally the Bill also seeks to provide greater protection to workers in the disciplinary process by ensuring that an oral hearing is held in a fair and independent manner.

Mr Deputy Speaker, Sir, what has been the practice so far? A disciplinary committee set up by the employer, the Chairperson is selected by the employer, is paid by the employer and many times it happens that the employee does not get the opportunity to be properly represented. And what is being proposed as regards disciplinary committee, for the aims at eliminating any perception of injustice. It is proposed to do so by expressly legislating on the independence of the Chairperson in such disciplinary hearings. The Chairperson, as proposed, should be someone who has not been involved in the investigation and who is able to make an independent decision thus ensuring enhanced due process in disciplinary matters.

Mr Deputy Speaker, Sir, I am sure that Members of the House will surely agree that presently, as I stated earlier on, certain employers resort to a disciplinary hearing only with a view to complying with

the law such that they may avoid payment of severance allowance for unjustified dismissal at the rate of three months remuneration for every 12 months of continuous employment.

The new proposal reinforces the right of workers and with the additional safeguards providing that a worker may now be assisted at a disciplinary hearing by both his trade union and his legal adviser. I am sure that Members of the House - there are many Barristers on the other side of the House - will find in these new proposed amendments to be a significant improvement in the rights of workers

Mr Deputy Speaker, Sir, the doing away with a Termination of Contracts Service Board, has been the subject of endless criticism by workers organisations since there exists no institution to decide upon the justification or not of collective dismissals, but temporary or permanent reduction of workforce or closing down of enterprises. It is noted that the Bill proposes the creation of an Employment Promotion and Protection Division as a new division of the Employment Relations Tribunal. The role of this new Division is to determine whether the temporary or permanent reduction of the workforce or the closing down of enterprises is justified or not.

Mr Deputy Speaker, Sir, what is even more interesting, is that the Employment Promotion and Protection Division is also empowered to order an employer to reinstate a worker in his former employment where the latter consents to such reinstatement and to pay the worker remuneration from the date of termination of his employment to the date of his reinstatement. So, the concept of reinstatement is finally expressly being included in our law. Members of the House surely know of so many cases where workers have struggled in vain to be reinstated. In some cases they have even resorted to hunger strikes.

Now, the Employment Promotion and Protection Division has been given the power to order reinstatement. This power to order reinstatement is even extended to the Industrial Court in specific circumstances, namely, in cases of unfair dismissal on grounds of discrimination and victimisation for participation in trade union activities. Mr Deputy Speaker, Sir, a lot has been said by the orator before me on the issue of unlawful strike.

The Employment Rights Act presently provides in section 9(2) that no worker shall cease to be in the continuous employment of an employer for reason of his participation for a first time in a strike which is unlawful under the Employment Relations Act. I have just been informed, Mr Deputy Speaker, Sir, of the number of illegal strikes by migrate workers.

In 2009, it was 10; in 2010, it was 20; in 2011, it was 15 and last year it was 11. The Employment Relations Act, Mr Deputy Speaker, Sir, provides for a set of procedures to be followed before resorting to a lawful strike. Section 83 of the Employment Relations Act provides and I quote -

“The contract of employment of a worker shall not be broken by reason of his participation in a strike which is not unlawful.”

Clearly, in the two legislations which both deal with employment matters, there is a contradiction as regards the effect of a strike on the individual contract of employment. I am sure, Mr Deputy Speaker, Sir, Members of this House will realise that the two Acts have to be harmonised and a better and more realistic view has to prevail, that is, an unlawful act cannot by any means be made lawful. Hence, the proposal to do away with section 9(2) of the Employment Rights Act thereby ensuring efficient industrial and employment relations that will eventually lead to social peace which is an imperative in the prevailing worldwide precarious economic situation.

Coming to the Employment Relations Act, the Mauritian industrial relations system needed a fresh makeover to reflect the changes in the system and our society. Consequently, the Industrial Relations Act of 1973 was repealed and replaced by the Employment Relations Act which was enacted to consolidate the law relating to trade unions; fundamental rights of workers and employers; collective bargaining; labour dispute and related matters. The first proposed amendment, Mr Deputy Speaker, Sir, to the Employment Relations Act is the conciliation service by the Minister in person to the parties to a labour dispute. As the hon. Minister of Labour, Industrial Relations and Employment stated, it is a long-standing practice for Ministers of Labour to personally assist parties to a labour dispute with a view to bringing the parties to a consensus. However, there is presently no legal basis for such conciliation service; such that from a purely legal standpoint, the agreement resulting from such conciliation can again be subject to a labour dispute. There was recently a case where the hon. Minister of Labour offered his service to conciliate two parties to a labour dispute and an agreement was signed on some of the issues in dispute. However, another trade union, which was not a party to the agreement, contested the agreement reached thereby challenging its validity. Should things like this be allowed to repeat, a chaotic situation is likely to ensue; hence the rationale of this new proposal, Mr Deputy Speaker, Sir. The Minister will have the power to provide a conciliation service to the parties to a labour dispute where the dispute remains unresolved at the level of the Commission for Conciliation and Mediation and a dispute is not referred to arbitration as well as, at any time, before a lawful strike takes place. However, the Minister will offer his services only at the request of the parties. Also, any resulting agreement is going to have the effect of a collective agreement. This means that the agreement will remain in force for, at least, 24 months and will be binding on the parties to the agreement as well as on all the workers in the bargaining unit to which the agreement applies.

Mr Deputy Speaker, Sir, this is surely a means of ensuring industrial peace which is vital to our economy. Mr Deputy Speaker, Sir, the amendment to the Employment Relations Act also seeks to limit the membership of workers to only one trade union of his own choice in the same enterprise or bargaining units. This will help in the strengthening of trade unions. It is noted from the general survey of the 2012 ILO Committee of Experts on the Application of Conventions and Recommendations, at paragraph 91, the Committee refers to the legislation in certain countries which stipulate that members of a trade union must belong to the same or a similar profession, occupation or branch of activity or imposes a general structure on the trade union movement. The Committee views that such restrictions may only eventually be applied to first level organisations on condition that these organisations are free to establish inter-occupational organisations and to join federations and confederations in the form and manner deemed appropriate by the workers or employers concerned. In the proposed amendments, the proposed amendment restrictions are imposed only in respect of the same bargaining unit or enterprise. Workers are free, Mr Deputy Speaker, Sir, to join more than one trade union where the trade unions do not cater for one and same bargaining unit. Additionally, by virtue of section 16 of the Employment Relations Act, the trade unions are free to join and/or federations and confederations in the manner approved by the rules of each trade union or federation.

Mr Deputy Speaker, Sir, I am confident that the proposed amendments aim at providing a better framework for employment legislation to operate more efficiently and to reinforce the underlying spirit of the principal Acts themselves which seeks to afford better protection to the workers of this country against unfair treatment. These Bills are, in my view, of utmost importance as they represent yet another landmark in individual and collective contractual obligations of workers in Mauritius.

With these Bills, Mr Deputy Speaker, Sir, we are adding more rights of our labour force, one of the most valuable resources which our country possesses.

I thank you for your attention.

*At this stage, Mr Speaker took the Chair*

(11.21 p.m.)

**Mr P. Jugnauth (First Member for Quartier Militaire & Moka):** M. le président, beaucoup a été dit sur les amendements qui sont présentés aujourd'hui devant la Chambre. Je souscris entièrement à tout ce qui a été dit par mes collègues de l'opposition. Mais je ferai quelques commentaires sur la philosophie - surtout en présentant ces amendements - que représente ce gouvernement, surtout le Parti

travailleuse d'aujourd'hui, et je vais certainement faire quelques commentaires sur certaines sections de ces amendements.

M. le président, permettez-moi, au départ, donc, d'exprimer mon indignation de la façon dont le ministre du Travail et des Relations industrielles a procédé pour présenter ces amendements aux deux lois du travail qui concernent plus de 500,000 employés de ce pays. En décembre 2012, le ministre s'était empressé, et puis pour des raisons jusqu'à présent, peut-être en partie inconnue, il a dû se rabattre. Pour la rentrée parlementaire 2013, nouvel empressement, le ministre présente, à la dernière minute, des amendements aux amendements de décembre 2012, sans aucune consultation avec les syndicats. Encore une fois, on a vu d'autres amendements qui ont été présentés. Vendredi, après la réunion du Cabinet, le ministre a circulé une troisième génération d'amendements, encore une fois sans consulter les syndicats, et encore une fois dans l'empressement. Les amendements ont été circulés hier, et mon collègue, l'honorable Soodhun, a eu ces amendements à sept heures du soir.

M. le président, le ministre va peut-être nous dire tout à l'heure que ces amendements *are not very consequential. Maybe!* Mais lorsqu'on regarde amendement après amendement, tout d'abord il faut faire un travail pour aller voir chaque section des lois respectives où le ministre vient dire *that he is deleting* - je ne sais combien de sections ; clauses 7, 8, 14, 15, 19, 21, 22, 24, 30, 35. Cela peut paraître une lecture facile, mais pour nous qui devons légiférer, qui devons faire des commentaires, on a le devoir d'aller vérifier chaque clause, et de voir qu'est-ce que le ministre est en train de proposer, de retirer, de changer, d'ajouter, et quelles sont les conséquences de ces amendements. Hier, lorsque j'ai reçu d'autres amendements aux amendements qui ont été proposés, je dois vous dire que c'est comme un labyrinthe ; *it is a maze*. J'ai écouté l'*Attorney General* qui disait tout à l'heure qu'il y a bon nombre de légistes. Je dois dire que moi-même, en tant que légiste, aller voir chaque amendement proposé n'a pas été facile. Donc, je ne comprends pas, tout d'abord, l'empressement.

Je me souviens quand le *Leader* de l'opposition avait *adjourned the debate* la dernière fois, et avait demandé à ce qu'on puisse avoir quelques semaines, le Premier ministre avait dit - en passant - qu'au contraire, il pensait réunir la Chambre le vendredi au lieu du mardi qui suivait. Mais quand même, il a pris en compte notre demande, et cela a été renvoyé pour mardi. Et puis, par la suite, nous avons eu la tragédie. Donc, les projets de lois ont été renvoyés encore une fois. Et là, je ne comprends pas cet empressement. Lorsque j'ai écouté le discours du ministre qui vient dire qu'il y a une situation urgente, parce qu'il y a des syndicalistes, qu'il a qualifiés d'irresponsables, qui sont en train de préparer une grève, que ce soit dans l'industrie sucrière, le port et le transport, je me demande si, au contraire, le ministre, lui, n'a pas un agenda caché. Je n'aurais jamais imaginé, M. le président, que le gouvernement travailliste pouvait autant trahir les travailleurs, surtout depuis 2006. Je me pose la question !

Revenons sur les amendements. Allons dire que si le Premier ministre avait insisté pour que le Parlement siège le vendredi, si on avait débattu les deux projets de lois, les deux projets de lois auraient été votés. Mais ces amendements qui sont venus après ! Peut-être qu'on aurait encore renvoyé les débats, et je peux parier qu'il y aurait encore eu des amendements à ces amendements. Mais, passons, puisqu'on est, aujourd'hui, pour terminer le débat sur ces deux projets de lois.

*Mr Speaker, Sir, the proposed amendments to the labour laws that were enacted in 2008 come at a time when workers of this country are, in fact, going through very hard times on the social and economic fronts. J'ai entendu un orateur du côté du gouvernement, l'honorable Dr. Boolell, qui a consacré une grande partie de son intervention à décrire la situation au niveau mondial, mais surtout la situation à l'île Maurice qui est difficile et, pour lui, c'est cette situation en particulier qui justifie qu'on vienne faire ces amendements.*

The standards of living are, in fact, deteriorating for the workers. Poverty is on the rise, the middle class is decimated, and job precariousness has become workers' nightmare. Unemployment is on the increase and indebtedness has reached alarming proportions. What has led our country and the workers to such an appalling situation? Since 2006, I am consistent in my analysis and today I will say it again in this House that the drama lies in the ultra liberal policies adopted by this Government.

Since 2006-2007 Budget, our country has been led on the path of ultra liberalism inspired from IMF and World Bank doctrines where workers are mere puppets in the hands of the employers and where the rich, in fact, become richer and the poor poorer.

Mr Speaker, Sir, we should not forget the context within which the two new labour laws were voted in this House. As I said, the agenda of the then Government was being implemented full swing with the blessing of the hon. Prime Minister. I can recall this philosophy when the rupee had been depreciated by a massive 20% to fill the coffers, to use the term of a hon. Member of the Government "to fill the coffers of the fat cats of the private sector".

Workers and the population at large, in fact, bore the brunt of the cascading price increases. I remember how subsidies were slashed on the SC and HSC...

**Mr Speaker:** No! Sorry, the hon. Member has to give way. This is not a debate on the Budget. I would appeal to the hon. Member to stick to the amendments.

**Mr Jugnauth:** Yes, Mr Speaker, Sir, however, a lot of latitude was being given to, for example, hon. Dr. A. Boolell, who intervened for thirty five minutes and spoke thirty minutes on everything else and five minutes on the Bill!



*(Interruptions)*

Yes, we can check and we will see what he has been stating. So, I need to reply to what hon. Members of the Government have been saying!

*(Interruptions)*

I was talking about the subsidies that were slashed on the SC and HSC examination fees for the majority of our students. The decision was even taken to deprive school children of a loaf of bread. The tripartite mechanism for determining salary compensation for the increase in the cost of living was dismantled and the much contested National Pay Council was set up. Workers were in fact being robbed of their dues in terms of salary compensation. Again, employers saved millions of rupees in respect of salary compensation! And again, their coffers were being filled while the purses of workers were being emptied!

We reached a situation where for the first time since the glorious days of economic miracle in the 80s, the then Minister of Finance himself said: “we had absolute poverty in our country”. But, that did not prevent the then Government to continue to pursue on its ultra liberal track and to bring the new anti-worker labour laws.

Mr Speaker, Sir, the essence of the new anti-worker labour laws had been presented by the then Minister of Finance in the 2006-2007 Budget Speech. Let me quote -

“Our greatest deficiency is the misery we have imposed on our workers. By protecting jobs, we have made it impossible for our younger workers to find employment and for those who lose their jobs to get back to work.

The inflexibility of some laws and the rigidity of some regulations and practices have consigned tens of thousands of our compatriots to the margins of development. They have been excluded by the very system that purports to protect them.”

And for the Minister then who had the full support of Government, job security was, in fact, a deficiency and a misery for workers! Could you have imagined a Labour Government speaking such a language! As remedy to the newly found misery, the then Minister of Finance, in concurrence with the Government, proposed reforms to the labour laws in accordance with IMF predicaments and MEF’s long time request.

In fact, over the years, the Mauritius Employers Federation had - I can recall when we were in Government - been systematically requesting for hiring and firing powers. The *Alliance sociale* satisfied that employers’ earnest desire when they came up with the labour laws that took away from workers many of their acquired rights.

M. le président, le gouvernement d'alors a donné le pouvoir aux patrons pour transformer les travailleurs de ce pays en véritable paillassons. Les travailleurs sont aujourd'hui à la merci de leurs employeurs. Ce gouvernement a légiféré en faveur de l'insécurité et de la précarité de l'emploi, et le coût de licenciement a été réduit aux profits des patrons. Le préavis de licenciement a été réduit de trois mois à un mois. Le licenciement sans compensation pour raison économique a été introduit, des provisions ont été votées pour que les heures supplémentaires soient payées qu'après 90 heures de travail normal.

Et le *Termination of Contract Services Board* a été aboli entre autres, sans oublier les pouvoirs accrus accordés au ministère du Travail qui ne sont pas en pratique dans l'intérêt des travailleurs. Le comble dans tout ce massacre social demeure la déduction obligatoire d'un pourcent des salaires des travailleurs pour subventionner leur éventuel licenciement, si cela devait arriver!

M. le président, en un trait de plume le gouvernement Travailleiste avait trahi tout un combat du Parti Travailleiste, tels que Anquetil, Rozemont, Pandit Sahadeo et tant d'autres tribuns ! Et comme l'a si bien dit l'honorable Soodhun, les travailleurs de ce pays n'oublieront jamais le combat de l'honorable Paul Bérenger pour améliorer les conditions de travail et garantir les droits fondamentaux des travailleurs. D'ailleurs dans le discours de l'honorable ministre, je vois que lui aussi aujourd'hui reconnaît cela.

Mr Speaker, Sir, at a time when the Employment Rights Bill and the Employment Relations Bill were being discussed outside and inside this House, we in the Opposition, said forcefully that the new labour laws would be detrimental to the workers and we condemned the anti-worker *modus operandi* of the then Government. We warned that employers would be using the new provisions of the labour legislation to fire as they wish and when they wish.

I remember hon. Soodhun, came with as many as 32 amendments that were meant to safeguard the acquired rights of workers. Government at that time did not listen. They rejected all the amendments outrightly. I heard the hon. Minister saying in the Second Reading of his speech, that we have not come forward with proposals. But proposals had been made a long time ago and they justified everything. They pretended that the new laws would improve work conditions and that workers would be better off. They voted the new labour laws giving extensive powers, as I said, to fire on economic reasons.

Mr Speaker, Sir, what we apprehended actually materialised. Employers used and are using the firing provisions of the new labour legislation to sack workers unjustly. Since the new legislations have been proclaimed, as many as I understand, 30,000 workers have been fired by employers on the basis of economic reasons. The hon. Minister himself has been saying in this House that employers have been and are making an abuse of that section of the law, which is causing misery and havoc amongst hundreds

of families. In the face of this drama attributable to the new philosophy, the ultra liberal and pro-employment agenda, this Government is now trying to correct its own blunder.

Après avoir été l’auteur du crime envers les travailleurs, le gouvernement joue maintenant au justicier et brandit l’arme favorite que l’honorable Premier ministre utilise à chaque fois qu’ils sont acculés. Ils donnent l’impression d’attaquer les patrons. Ils les accusent d’avoir abusé de la nouvelle loi, alors que dans le fond, l’agenda ultra libéral, pro-capitaliste et anti-travailleur reste le même. En tout cas, ils sont bien, bien loin des idéaux du parti Travailliste de Rozemont et d’Anquetil.

But while putting the blame on the employers, the hon. Minister is still saying that the Government was right in giving firing powers to employers. The hon. Minister said, and I quote –

“It was an excellent piece of legislation.”

Quelle contradiction, M. le président ! Mais je note quand même des claques magistrales à l’ancien ministre du travail. L’honorable ministre, Shakeel Mohamed, blâme son collègue et, en même temps, l’honorable Premier ministre, pour avoir, entre autres, cru dans la bonne foi des employeurs, pour n’avoir pas mis de limite en termes d’heures de travail par rapport au *shift work*, et pour avoir été trop diligent envers l’employeur quand il s’agit de notifier son employé au cas où ce dernier est accusé de mauvaise conduite. En gros, l’honorable ministre reproche à son ancien collègue d’avoir bâclé le travail. Des mots qui sont ronflants, ont été utilisés par l’honorable ministre comme pour mieux faire comprendre qu’il est en train de faire beaucoup pour les travailleurs. Maintenant, l’honorable ministre, va corriger les crimes commis par le deuxième gouvernement du Premier ministre, le Dr. Navin Ramgoolam. Et il va jusqu’à faire la leçon lorsqu’il affirme, *and I quote what he said* –

*“I am not like certain people who are so adamant that without politics, they do not have a life. I have a life without politics. I am sorry, this is me. Learn if they do not know how to do it.”*

Donc, l’enfant terrible, M. le président, il menace, il n’a pas de leçon à prendre de qui que ce soit, et quid de quitter la politique même si on lui reproche quoi que ce soit.

Il fait le procès des employeurs, donnant l’impression encore une fois, qu’il est le grand défenseur des travailleurs comme l’ont été les illustres tribuns qu’il a mentionné du parti Travailliste des premières années. Mais dans les faits, M. le président, l’honorable ministre poursuit la logique du gouvernement de l’alliance sociale. Lui aussi, il a succombé à la sirène des employeurs. Je pense bien parce que c’est la façon de procéder le conseil des ministres, les honorables membres du gouvernement ont dû certainement analyser et bien étudier ces amendements et on verra combien vraiment d’entre eux sont d’accord avec ces amendements. Je ne vais pas mentionner ce que l’honorable Ms Deerpalsing a déjà déclaré et cela a

été déjà dit. En tout cas, cela ne m'a pas surpris. Je dois dire personnellement pour avoir évolué dans ce gouvernement pendant quelques temps et cela ne me surprend guère, la façon de faire et la façon de se dissocier à un certain moment avec certains membres du gouvernement. Mais pas dans la Chambre; elle préfère parler ailleurs, chacun son style et chacun sa façon de faire.

Mais pire encore, l'honorable ministre prend les syndicalistes et les travailleurs pour des ignorants et il s'efforce à essayer de convaincre. Je vais donner certains exemples en ce qu'il s'agit des différentes sections des amendements qu'il propose.

Let me start with the new proposed amendments to the Employment Rights Act 2008, regarding redundancy or reduction of workforce. Despite a vain safeguard in the new proposed section 39(b) in clause 19 as proposed in the new amendment, they do not cure anything in reality. The Labour Government has successfully eroded the rights of the workers in such a situation. We have gone from getting prior permission from the Ministry before such a redundancy is effected in the Labour Act, to informing the Ministry prior to such an Act, under the ERA 2008. Now, the Ministry is only informed by the employer after such a reduction of the workforce.

So, the new safeguard in clause (h) ushering in the newly proposed sub-section 19(3); introduces a consultation phase, but does not say what happens, if the employer fails to do so. No sanction is, in fact, provided. I call that mere eyewash. Now, with the proposed amendment, the employer would be informing only after firing for economic reasons. I ask the question again. I will not repeat what the hon. Members of the Opposition have been saying. I have read a number of his public interventions, where the hon. Minister reassured the workers that 'this is a situation that cannot continue and I am going to do something about it.' I must say that he did not say specifically what he was going to do, but the way he spoke and from the contents of his different interventions, made an ordinary person to believe that he was going to make profound amendments to that section of the law. But I am afraid that for me it equates to fooling the working class.

Quel culot de la part du ministre pour venir affirmer qu'il s'agit d'un progrès législatif pour les travailleurs! En fait, les employeurs ont toujours la carte blanche pour licencier. Ils sont autorisés à commettre leurs crimes et venir par la suite justifier leurs actes. Quelle trahison donc pour le parti Travailleuse d'aujourd'hui envers les travailleurs.

In fact, the floodgates are still wide open for even more abuses. I don't want to as if make forecast, but time will tell just like time has told us now. Since 2008, when hon. Soodhun and Members of the Opposition were - *on avait attiré l'attention du gouvernement d'alors de regarder ce qui va se*

*passer et effectivement, avec le temps maintenant, le ministre vient de dire qu'il y a eu des abus et les employeurs et les patrons ont licencié et ils se sont saisis de cette section de la loi pour licencier.*

The second blatant example, Mr Speaker, Sir, refers to the amendments to the Employment Relations Act as regards the limitation on the right to strikes or recourse to lockouts in the circumstances where a collective agreement is in force and the immediate effect of this amendment - as highlighted by a number of trade unionists - would be that the right to strike of labourers and artisans of the sugar industry will be quashed during the negotiations between the MSPA and the Unions this year. This is the tragedy. The Minister himself is party to that agreement that was signed on 17 August 2012 between the MSPA and the trade unions of the sugar sector, whereby commitment has been taken to engage in negotiations for a new collective agreement that would come into force in January 2014. This is very important for the workers, where end results and new issues would be taken up. The Prime Minister, Members of his party including the Chairperson of the Commission for the Democratisation of the Economy - *le titre de ce comité est ronflant*. But we have criticised the MSPA for refusing to negotiate on behalf of the sugar producing companies.

*Je ne vais pas entrer dans les détails. Tout en négociant comme une entité collective, à un certain moment, ils viennent dire aux travailleurs que maintenant il faut aller discuter avec chaque compagnie sucrière. Mais, franchement, si déjà avec la loi qui existait les patrons de l'industrie sucrière se sont comportés de cette façon, maintenant venir enlever, this was, in fact, a tool in the hands of the workers so that they are able, at least, to try to put themselves - I would put it that way - on the same level playing field as the employers. Mais on a vécu cela et on a vu ce qui s'est passé. We would all have thought that it was a victory for the labourers and the artisans of the sugar sector. Mais c'était donner trop de crédit au ministre et à ce gouvernement. Chassez le naturel il revient au galop. Cet adage s'applique parfaitement à ce gouvernement. Trahison envers les travailleurs une nouvelle fois. Et avec l'amendement proposé à la section 77(b) de L'Employment Relations Act, M. le président, s'il y a litige ou deadlock lors des négociations entre la MSPA et les syndicalistes du secteur sucrier durant le reste de 2013 où le collective agreement de 2010/2013 est toujours en vigueur, il ne peut y avoir je dirais aucun recours. Qu'est-ce que les travailleurs vont pouvoir brandir contre les patrons? Le ministre et ce gouvernement travailliste rend ainsi caduque un accord qu'ils ont eux-mêmes discuté et finalisé avec les employeurs du secteur sucrier en août 2012.*

Ce qui est proposé dans l'amendement à la section 67 C (3) et circulé le 5 avril est encore plus grave. La porte est solidement verrouillée pour plaire davantage au secteur sucrier et au patronat. De part ces amendements, aucun litige ne peut être déclaré pendant une période de 24 mois suivant la signature d'un *collective agreement* sur des sujets qui n'ont même pas été discutés durant la période des

négociations. C'est extraordinaire et cela même si les travailleurs sont indûment affectés par un problème concernant leur salaire et des conditions de travail. Encore une fois les travailleurs sont livrés à la merci des employeurs. C'est révoltant, M. le président, de constater qu'un gouvernement peut devenir à ce point - je dirais plutôt - l'alliée des patrons contre les travailleurs. Pour moi, c'est un crime envers les travailleurs du secteur sucrier et pourtant on a l'habitude d'entendre le Premier ministre dire : *tant qui mo là qui ou peur*. Quand il prétend s'attaquer au patronat sucrier, je me demande qui doit avoir peur avec ce gouvernement et ce Premier ministre; les travailleurs ou les patrons ? Clairement dans les faits, ce sont les travailleurs qui sont les perdants ; ils ont été bernés et le parti Travailliste va leur faire croire toujours qu'il est leur défenseur. Cela me fait rappeler, M. le président, le Premier ministre s'était attaqué aux patrons sucriers en décembre 2007. Monts et merveilles avaient été promis aux travailleurs de l'industrie sucrière comme les fameuses actions directes dans toutes les entités sucrières. La baisse des tarifs d'électricité après révision des accords entre le CEB et les producteurs privés d'électricité. Tout cela n'a été que du vent jusqu'à présent. Il n'en fut rien jusqu'à ce jour. Plus de cinq ans se sont écoulés depuis et les travailleurs attendent toujours. Par contre, le Premier ministre a agi rapidement en faveur de ces mêmes patrons sucriers auxquels il s'est toujours attaqué. Il leur a accordé, en catimini s'il vous plait, même que j'ai posé une question à l'honorable ministre de l'agriculture. Il a avoué dans cette chambre que lui-même il n'avait pas le contenu d'une section de l'accord qui a été faite avec les sucriers. *Le deal* où ce gouvernement a fait un cadeau de cinq milliards de roupies en approuvant une augmentation de 600% du prix du sucre sur le marché local. Les travailleurs et la population sont épluchés grâce au bon vouloir du Premier ministre et du gouvernement Travailliste. Et ce même Premier ministre viendra dire à la population qu'ils ont déclaré la guerre et le terme qu'ils utilisent est : les barons sucriers. Donc, les masques sont tombés et ils continuent à tomber. Et la population sait maintenant qu'elle a affaire - pour utiliser le terme qu'a utilisé mon collègue, l'honorable Obeegadoo - à un gouvernement hypocrite et arnaqueur.

And, a third example, Mr Speaker, Sir, relates to the amendment as regards an allowance of 10% of basic wage for work performed during night shift, and looking at it, one would tend to believe that the hon. Minister has been generous towards workers, but when you look at the details you discover that a worker will have to work for seven consecutive hours and that also between 6.00 p.m. and 6.00 a.m. to qualify for this allowance. The question I ask is: how many workers would, in fact, benefit from this measure? How many employers also, would actually be paying this allowance? *Encore une fois attendons voir*. Now, the amendments with regard to shift work cannot be a standalone and if Government was really serious, it would have come with appropriate amendments to the remuneration orders in order to harmonise same.

A fourth example relates to the proposed amendment to Section 67 (2) of the Employment Relations Act. Now, we have voted, the new amendment will again undermine the negotiations in the sugar sector this year and interdict the reporting of issues which were canvassed, but not settled, in 2010. In fact, employers can use a new provision to restrict labour disputes resolution and strike action. Also, the proposed new definition of labour dispute which excludes labour dispute, that is reported more than three years after the act or omission that gave rise to the dispute could result in a situation where, in fact, any existing terms and conditions which are in force for more than three years would not be subject to change. This, Mr Speaker, Sir, I find absurd and by no means constitutes any advancement for the workers.

A fifth example concerns the proposed amendments to section 78 of the Employment Relations Act. Strike ballot would be held in the presence of the Permanent Secretary of the Ministry of Labour, Industrial Relations and Employment under the authority, of course, of the hon. Minister. The hon. Minister proposes to act as conciliator and is giving, in fact, himself powers under the law. What is the agenda? I ask myself, the hon. Minister is going to act as a supervisor, as a 'sirdar', for the employers. Could not this amendment be interpreted as, in fact, Government's interference in the independence of the Trade Union Movement? Is the hon. Minister not deliberately usurping the role of the Commission for Conciliation and Mediation? I asked myself, why are institutions being sidelined? Again, what is the agenda? Can a Minister or a Permanent Secretary be more independent and objective than an independent institution?

Clearly, Trade Unionists and workers have all the reasons to worry about as with the new process and with the conditions that are being imposed, the possibility for workers to go on strike is almost reduced to nil and the more so, when section 9 (2) of the Employment Rights Act is being repealed altogether to punish workers who participated in a strike even for the first time, and workers of this country are, in fact, losing one of their fundamental rights. I have asked myself the question, this section, well, I must say, the much criticised labour laws that were proposed by former Minister Dr. Bunwaree at that time had included this section. There must be a reason. I don't want to go into the detail of whether there was a set-off, a bargain, a trade-off or by whatever name you call it, but it was there and has existed for so long. Why is it that now this Government wants to get rid of that section? I, again, say that was at least one of the fundamental rights of the workers. *Mais encore une fois, trahison de la part du Parti Travailleuse envers les travailleurs et je dirais trahison surtout envers les tribuns travailleuses qui avaient engagé tout un combat pour que les travailleurs obtiennent le droit de grève, et je ne crois pas que feu Abdool Razack Mohamed aurait été fier de cette œuvre.*

A sixth example, Mr Speaker, Sir, relates to the proposed amendment whereby the number of days where a worker could absent himself from work without reasonable cause is now being reduced, for a first time reduced, to two days from three days. Again, I ask the question, I don't see the reason: was it urgent, has it caused problems? Again, this is in the interest of the employers and, once again, I would say the bias is shown and the loser, the one being pressurised, the one being unduly targeted, is the worker.

Another point I wish to raise is the proposed creation of the Independent Employment Promotion and Protection Division within the Employment Relations Tribunal and we all know that the ERT is an instance of appeal. Now, if we put the proposed division under the ERT, would we not be making of the ERT, judge and party? I ask the question.

Mr Speaker, Sir, the attempt to secure the employment of the worker by supposedly providing that an employer cannot employ a worker on a contract of determinate duration for more than 24 months in a position which is of a permanent nature and for such contract to be deemed to be an indeterminate duration is again for me not a major change. What will happen? We know it used to be for a lesser period before, what employers used to do is to try to terminate the contract just before the end of that period and then, to re-employ that worker again. So, we will see again, time will tell how this new measure will work.

Now, the hon. Minister by introducing new undefined concepts such as position of a permanent nature is, in fact, creating room for confusion and, in practice, in the absence of a clear definition of same, the situation will be muddled leaving to the employer the liberty to choose and define the position of a permanent nature. Again, I ask the question: is it not deliberate to leave room for confusion, to grant employers the right to have their own interpretation and justify their action against workers?

Mr Speaker, Sir, I note a number of other flaws in the amendments to the Employment Rights Act as clearly highlighted by some Trade Unionists; Portable Severance Allowance Fund is still not being introduced although the idea has been canvassed time and again by the Trade Unionists and has, in fact, been the subject of much discussion when portable pension was introduced in our statute books. Punishment linked to disciplinary measure is not very clear. The related proposed amendments stipulate that no worker should be suspended for more than four days without pay if found guilty of charge. Nothing has been said on either remuneration or basic wage and refund of untaken annual leave is not outright to all employees.

Mr Speaker, Sir, as I said at the beginning of my intervention, the Minister has, in fact, rushed twice with a number of new amendments to those proposed in December last year. The least that we



could expect was that he would have engaged discussions with the trade unionists and given, in fact, reasonable time - I say reasonable time - to all stakeholders, including ourselves, representatives of the people, to study those new amendments, and make representations because we cannot study those amendments in a hastily manner. We also have to make consultations. If the Minister feels that he has made sufficient consultations, if he feels that he has had time, and feels that he does not want to make further consultations, however, when we received those amendments, we need to consult not only trade unionists, but we need to consult other people who are knowledgeable in this area of the law. Again, we have been denied a right to do so. What was again the agenda of the Minister? When looking closely into some of the new amendments, we realise how, and I will say it bluntly, he has been *de mèche* with employers to inflict more pain on the workers. I have given many examples to prove what I am saying.

Mr Speaker, Sir, when the *l'Alliance sociale* Government came with its so-called Economic and Labour Law Reforms, the Prime Minister and many of his Ministers at that time said there was no other alternative. We have not forgotten the *Tina walas* who claimed nothing else could be done except inflict pain on the population and the workers with reforms cut to the size of the fat cat pockets. I am proud to stand up and say today that I have proved the Prime Minister and his *Tina walas* wrong. *Non seulement c'est grâce à mes engagements et ceux de mon parti, le MSM, pour corriger les crimes commis contre la population entre 2005 et 2010 par le gouvernement de l'Alliance sociale que la victoire de l'Alliance de l'Avenir a été acquise lors des dernières élections générales, mais aussitôt que j'ai assumé mes fonctions en tant que ministre des Finances en mai 2010, j'ai tenu mes engagements l'un après l'autre. Les travailleurs et la population se rappelleront que j'ai démantelé le National Pay Council et restitué les tripartites pour déterminer le quantum de la compensation salariale. J'ai aboli les taxes injustes qu'ont été la National Residential Property Tax, les taxes sur les intérêts, rétabli les subsides sur les frais d'examens du SC et du HSC et, pour une grande majorité de nos étudiants, rétabli les exemptions fiscales sur les prêts logements et les frais universitaires, rétabli les exemptions pour les petits planteurs, doublé l'income support pour les plus démunis, et réduire drastiquement la taxe sur le hedging loss sur les produits pétroliers. J'ai prouvé qu'il y avait effectivement d'autres alternatives, et les travaillistes étaient vexés. Peut-être qu'ils voyaient en moi un danger pour leur agenda ultralibéral et pro-capitaliste. Ce fut l'une des multiples raisons pour lesquelles ils ont comploté contre moi et mon parti. Mais, M. le président, j'ai prouvé mes convictions.*

**Mr Speaker:** I want to know what all this have to do with the amendments. I told you that this is not Budget time. You have to stick to the amendments. I have given you enough time to talk about things that should not have been told.

**Mr Jugnauth:** But I have been expressing my views on the labour laws.

**Mr Speaker:** Let us, at least, be relevant. Don't abuse of my leniency, please.

**Mr Jugnauth:** En tout cas, M. le président, tout ce que j'ai fait, je l'ai fait pour les travailleurs, pour la population, pour le pays, et j'en suis très fier.

M. le président, je ne vois pas comment les amendements qui sont proposés aux lois du travail de 2008 vont apporter un *sound legal framework, ensuring that workers' rights are fully safeguarded*, comme le prétend le ministre et le gouvernement. Au contraire, les travailleurs resteront plus que jamais à la merci des employeurs ; ils continueront d'être exploités, et le Premier ministre à la tête de ce gouvernement, comme durant le mandat 2005-2010, portera la responsabilité devant l'histoire, comme étant celui qui a trahi la cause des travailleurs et les idéaux du Parti travailliste d'Anquetil, de Rozemont et des autres tribuns travaillistes. Tout n'est qu'une question de leadership, M. le président.

Je citerai, pour conclure, les propos inspirateurs du *leadership guru, Dr. John Maxwell*, et je cite -

*"Everything rises or falls on leadership"*

Malheureusement, notre pays n'a pas de leadership. Les travailleurs et la population en général en paient lourdement les conséquences, et un vrai leader socialiste n'aurait jamais légiféré pour transformer les travailleurs en paillasse des patrons.

*Mr Speaker, Sir, this Government, led by the Prime Minister, is again turning its back to workers of this country, and is continuing on the ultraliberal and the IMF dictated reform agenda*, et la trahison envers les travailleurs se poursuit. Le patronat a trouvé son Messie, et il se nomme le Dr. Navinchandra Ramgoolam.

Merci, M. le président.

**Mr Speaker:** Hon. Leader of the Opposition!

(00.16 a.m)

**The Leader of the Opposition (Mr A. Ganoo):** Mr Speaker, Sir, good morning. Mr Speaker, Sir, after so much having been said from the benches of the Opposition, I will attempt to be as brief as possible because I don't want to repeat what has already been said. I would like to thank the Members on the side of the Opposition who have already made the case for the Opposition beautifully, and if I were in the place of the young hon. Minister, I would have given myself some time and a lot of thought to what has been said from here. The hon. Minister perhaps might not have appreciated the tones, the manner in which things have been said from here; granted. But I am sure he must have been able to evaluate and to assess the sincerity and profoundness of the proposals, suggestions and reflections that have been made by the Opposition tonight. I say that, Mr Speaker, Sir, not because I consider myself to be *un donneur de*

*leçons*. I say that because *je suis un peu maintenant un vieux de la veille*. I am the oldest parliamentarian in this House, since the Leader of the Opposition has gone to undergo treatment, besides you, Mr Speaker, Sir.

**Mr Speaker:** I think the one behind you maybe.

**Mr Ganoo:** What I want to say, Mr Speaker, Sir, is that I have been very close to unions, trade unions, labour laws legislation. In fact, this debate and those of 2008 give me some occasion to walk down memory lane, to go back to the Hansard. I found out that, in 1988, I asked a question to hon. Mrs Bappoo - she is not here - about the question of reinstatement; whether she will take steps to ensure that in suits of unjustified dismissal, the courts be empowered to order the reintegration of workers after such dismissal by their employers. *En 1988, je crois que l'honorable ministre était en garderie à l'époque. N'est-ce pas?* Be it as it may, Mr Speaker, Sir, the labour legislation is something very complex. No doubt about that. I can understand what is happening in this House today but, I think, the hon. Minister should have realised that, complex as it is, labour legislation hinders a lot on compromise, negotiations, social and political compromise.

Mr Speaker, Sir, I don't want to indulge in political arguments too much, but it is true that when we look at the history of our country, in terms of labour legislation, in fact, there have been *deux étapes, deux grandes phases*. And here again, when I go back to the Hansard, Mr Speaker, Sir, I see that in 1988 when the Occupational Health, Safety and Welfare Bill was being discussed, *les droits des travailleurs* were, of course, in the forefront during the debates.

M. le président, le combat pour la sécurité au travail a connu, je dirais, deux phases distinctes, deux étapes différentes. Les premiers jalons furent posés pendant des années qui précédèrent et qui suivirent la création du Parti Travailleiste - je veux dire le grand Parti Travailleiste. Ce furent les années de l'éveil de la classe ouvrière, la revendication de ses droits et de meilleures conditions de travail. Est-ce une coïncidence que les premières dispositions de loi concernant la sécurité du travail furent mises en place en cette période ? Le *Boilers Act* de 34, le *Safety of Dockers Act* de 37, le *Workmen's Compensation* de 2936 furent le résultat et le fruit de lutte de nos tribuns travailleistes face à l'Etat colonial. Les jalons furent posés dans un deuxième temps, dans les années 70 à 75, de divers *Remuneration Orders* préconisant les meilleures conditions de travail, et finalement le *Health and Safety Regulations* de 1980, que nous amendons aujourd'hui, sont les résultats du second souffle de la lutte de la classe ouvrière mauricienne. Ce nouveau regain de confiance et ces années d'effervescence syndicale furent sous l'impulsion d'un *autre grand parti qui a marqué l'histoire de ce pays, je cite bien sûr le MMM*.

Mr Speaker, Sir, it was a matter of regret for the working class of this country when the gloomy days came and the IRA was legislated and, we all know, Mr Speaker, Sir, what was the effect of this law, which was passed by the Labour Government then and whose final objective was, as you will remember, to render the quasi totality of the industrial actions and strikes illegal, allow the imprisonment of workers, granting powers to employers to impose compulsory arbitration, intervene in the internal administration of trade unions with a lot of victimization against workers, trade unionists and so on.

Mr Speaker, Sir, the attempts to do away with the IRA had occurred on many occasions. The Select Committee to the IRA in 1982, - referred to by my friend, hon. Uteem - the Garrioch Committee of 1990, the TURA of 1994 and during the last mandate of the MSM/MMM Government, the White Paper produced by hon. Soodhun who was then Minister and then the law of 2008 came and which we are amending today, but *l'histoire se répète*.

History repeats itself, Mr Speaker, Sir, and sometimes not in the same manner - I was listening to hon. Jugnauth just now. This is true and, Mr Speaker, Sir, we cannot delete the record of history. It was this very Government which, when it took office in 2005, embarked itself unfortunately on an exercise which finally led to the tying of the hands of the trade unions, emasculating the trade unions.

Mr Speaker, Sir, we remember how the Trade Union Trust Fund was *asphyxié* and how the embedded tripartite negotiations which had existed, in fact, during the days of SSR and when Sir Veerasamy Ringadoo was Minister of Finance. It was in those days that the tripartite negotiations were set up in the old Labour days, Mr Speaker, Sir; but, they were done away with by the Government which took office after 2005 and the National Pay Council was substituted. The wage setting mechanism which had provided so much security and peace to this country was brutally done away with.

Mr Speaker, Sir, then we came to the 2008 legislation which was promulgated in February of 2009 - I made the point when I intervened in the 2008 debates. That again, I say, unfortunately, because this Government is supposed to be a Labour Government. But the proposals in the Employment Rights Act of 2008 were heavily inspired by the private sector, by a document called 'Towards a New Future' - as far as I remember - where all the proposals in this private sector document found their way insidiously into the Employment Rights Act of 2008. So be it, Mr Speaker, Sir.

It is with legitimacy that, since 2008, because the Government of the day had its majority, the laws were adopted by this House. And it was with legitimacy that from that time onwards, since 2009, when the two pieces of legislation were promulgated that the unions have been constantly asking for amendments to these pieces of legislation.

Mr Speaker, Sir, I will not come to all the different clauses that have already been commented upon by my friends on this side of the House.

But, suffice it to say, Mr Speaker, Sir, that not only in terms of *contenu* - to which I will come very briefly. But, today, as Leader of the Opposition, I would like to associate myself to what has been said, in terms of procedure, Mr Speaker, Sir. *On ne fait pas ça de gaité de coeur*, but we have to have a go at the hon. Minister, to denounce him for the manner in which this Bill has come to this House today. I will not repeat what has been said. I think this is unprecedented, so many amendments upon amendments when the first main amendments dates back to December 2012. And, today, we have used the words “lost in a judicial maze”. That is true, Mr Speaker, Sir. *De ma longue experience*, I have never seen so many amendments *tombés* after the main Bill has been circulated.

This is why I wonder whether the hon. Minister should not have come with the new Bill instead of harassing the Members of this House with different amendments week after week.

Mr Speaker, Sir, I think the hon. Minister, I am saying differently what has been said before me, in fact, *s'est fait une fixation à l'égard de monsieur* Ashok Subron. Quelqu'un avait dit c'est un *scaremongering*, but I think we are debating now this piece of legislation *à une heure moins vingt*. I think we should have been more serene in approaching this piece of legislation. Although there are some positive aspects, some positive features in this Bill to which I agree, but I am sure if the hon. Minister had given more time to himself for consultation with the unions, a lot more could have been done. This Bill would have contained a lot more positive clauses and perhaps also, Mr Speaker, Sir, if he had yielded to the proposals of the other bloc, that is, the GWF and the JNP, I am sure the situation would not have been as tense as it is between him and this Federation. Be it as it may, Mr Speaker, Sir, what I wish to say today as far as this Bill is concerned, I said that the Bill contains some positive amendments but I must hastily add that these positive contributions were, as a result of the long and protracted negotiations that the hon. Minister had with the *plateforme contre la loi anti-travailleurs*; Ms Jane Ragoo, Reaz Chuttoo and his team, and their collaborators. I wish, Mr Speaker, Sir, to place on record our appreciation, our thanks to these trade unionists. They have done a good job by convincing the Minister; by making the Minister backpedalling. This is not an insult to the hon. Minister. This is *un constat, une constatation de faits*. We know that a lot of discussions had taken place so they have prevailed upon the Minister and the Minister, himself, I think, *avait exprimé ses remerciements à ces syndicalistes là - l'équipe de Jane Ragoo et les autres - pour être arrivé à certains compromis. Tant mieux, M. le président.*

Yes, this Bill does contain *des avancées* and we have to thank these trade unionists who have been able to convince the Minister to accept their proposals. As we know, since the first amendments were circulated in December 2012, much water has flown under the bridge, Mr Speaker, Sir; much water

has flown in terms of the discussions between the hon. Minister and the trade unionists whom I have just mentioned. It is a good thing that the Minister has backpedalled. This is, in fact, the essence of labour legislation: compromise, negotiations because nobody owns the truth. I am happy that, when he interfaced our trade unionist friends, the hon. Minister, therefore, agreed to change many of the initial proposals that he came with in the amendments of 2012 so much the better for the working class of this country. But we have also, in the same breath, to express our disagreement with the hon. Minister. The term has been used here by many friends before me the fundamentals have not changed in spite of having taken so much time to come to this House with this Bill. The fundamentals have stayed the same; the Minister has not budged in any way. *D'une façon très exigeante*, Mr Speaker, Sir, I think this is what he has done. *Il a été vraiment* within the expecting, Mr Speaker, Sir, to hold on to his position as he has done because we have questioned him so many times, for example, on this question of redundancy. He, himself, talked about the abuses of the *patron* and so on. When all this was taking place to us in the Opposition and more so to the working class of this country the hon. Minister was giving hope to all of us. This is why, Mr Speaker, Sir, we have today to be very critical like some of us have done when we have criticised the Minister for having left the fundamentals as they were in the 2008 legislation.

Therefore, to us, the hon. Minister has Disraeli failed as a Minister responsible to protect, to show his protection on the workers of this country when he has not taken on board many issues and suggestions made by the trade unions. Mr Speaker, Sir, this Bill can give rise to a lot of debates; it has already done. We have been debating this Bill since this afternoon because it contains so many, not only controversial but important serious matters to which my friends have already referred to. This question of redundancy, reinstatement, collective bargaining, labour disputes, secret ballots, the section 9 of the Employment Rights Act; this question of job contractors which has been referred to by my hon. friend, Steve Obegadoo.

But I would like to come, Mr Speaker, Sir, to the few points where the Minister has backpedalled since 2012 where he has fortunately retained the proposals of the platform. I would like to raise a few points: the shift work from twelve hours to eight hours. In the 2012 amendment, he proposed the twelve hours, now he has agreed that the shift should be of eight hours. Again we thank the unions for that. Sick and Local Leaves: one day after six months - this is also another case where he has taken on board the suggestion of the trade unionists. The extension of delay of a worker who requests a postponement from a disciplinary committee - now this is ten days; a good thing Mr Speaker, Sir, *une avancée*. Again thank you, Ms Jane Rago and her other collaborators. When a worker is found guilty after a disciplinary committee, the maximum of four days to be deducted from his wages; *c'est une victoire de la plateforme syndicale*. Written statements of particulars of employment to be provided to all workers: this again *est*

*une grande victoire des syndicats*. So, Mr Speaker, Sir, maternity benefits and so on, I can go on. There are a few other victories, I would say, of the trade unionists. In fact, I would like also to say that even Mr Ashok Subron, who leads the other bloc, has publicly written a letter where he has expressed his strength and his gratitude indirectly, in fact, to his other colleagues who have done a good job and who are responsible for having been able to prevail upon the Minister to include in this piece of legislation these new proposals.

I could go on Mr Speaker, Sir, there are few other points, but to sum up, *bravo donc aux syndicalistes. Ils ont pu faire leur travail et maintenant*, they have reaped, Mr Speaker, Sir, so many fruits which the working class of this country will be able to benefit from.

Mr Speaker, Sir, the Employment Relations Act also, there are still a few points which the unions have expressed their disagreement. I would not come back on all these points, but I am sure my friends have already commented on these points. I will now come back, Mr Speaker, Sir, to the question of redundancy. Mr Speaker, Sir, regarding this question of redundancy, we must go at the basics. All our friends have commented upon this issue of redundancy. I would like to remind the hon. Minister, Mr Speaker, Sir, that why are we today insisting that the law, the TCSB was to be found in our Labour Act. The 2008 Bill came, did away with it. Mr Speaker, Sir, I would like just to explain to the House this question of severance allowance. On this question of termination of agreement, on this question of redundancy, severance allowance, Mr Speaker, Sir, it is good to remind the hon. Minister - and I am sure he knows about it - that we must be aware, that the ILO Convention No. 158 states, in very clear terms, in Article 12, Mr Speaker, Sir, and I quote -

- “1. A worker whose employment has been terminated shall be entitled, in accordance with national law and practice, to -
- (a) a severance allowance or other separation benefits, the amount of which shall be based, *inter alia*, on length of service and the level of wages, and paid directly by the employer or by a fund constituted by employers' contributions;”

So, Article 12, Mr Speaker, Sir, of this ILO Convention talks about the termination of employment and that the severance allowance must be paid to the worker and so on, depending on the length of service. So, this is why, Mr Speaker, Sir, we cannot understand, in spite of all this campaign that has been made for all these years, since 2008, questions put in the Assembly to the hon. Minister why, Mr Speaker, Sir, all these proposals with regard to redundancy and reinstatement have not been addressed properly by the hon. Minister. I will not come back on what has been said before me, for myself, Mr Speaker, Sir, I asked several questions about the number of people who have lost jobs, together with my friends, hon.

Baloomoody or hon. Reza Uteem or hon. Soodhun, the workers who have lost their jobs since this new law has been enacted and we know the figures, it is about 5,000 to 7,000 per year, Mr Speaker, Sir. So, this question of the onus of proof and this question of severance allowance have been abundantly dealt with, I will not make further comments. I want just to say that the employers, as the hon. Minister himself has said, have been making an abuse of the right to put an end to employment based on this question of economic technology or structural reason.

Mr Speaker, Sir, the Minister in his speech addressed rightly the weaknesses of the former TCSU in terms of the time taken to reach his decision and so on. We ask him the same question: what about the new Body that has been set up by the law, the IEPPD, there is nothing as to whether there is a well-defined mechanism, time limits must be clearly defined, the onus of proof, Mr Speaker, Sir, the services of experts should be put at the disposal of employees and so on. We fundamentally disagree with the institutions, with the setting up of these institutions, with the mechanism that has been provided in the law. I am also saying that even certain aspects, certain features have not been sufficiently dealt with by law.

Further, Mr Speaker, Sir, the question of reinstatement, the choice to accept reinstatement or compensation should be exercised by the employee after the finding of the division. Furthermore, I think that the scope of appealing against the decision of the IEPPD should be limited to points of law, as is the case for the Tribunal of Environment.

Mr Speaker, Sir, coming to this question of reinstatement, I must also disagree with the Minister. The Minister said in his speech: "There is no concept of reinstatement in Mauritius in our Labour Laws." No! I think the hon. Minister was ill advised when he said that. I am asking him to make reference to our defunct Labour Act of 1975 section 39(vi) and I am asking him also to look in the definition of the labour dispute in the Employment Relations Act where reinstatement is defined. Our case law also makes mention of the concept of reinstatement. *Concorde Tourist Guide Agency against the TCSB*, a judgment of 1985. Reinstatement, Mr Speaker, Sir, should be possible before the Industrial Court when an employee brings his case under the Employment Rights Act or even under the Employment Relations Act before the proposed division of the ERT and it should not be restricted to cases of victimisation as is proposed in our law today.

If we agree on reinstatement, we know that the question asked by employers or employers' lawyers regarding the constitutionality of such a provision, my suggestion is that the intention of the Minister must be clear. Today, when he sums up, *as the travaux parlementaires* can be used for interpretation purposes before our Courts. I am sure the hon. Minister understands very well what I am saying. So, if he agrees to broaden reinstatement and restrict it only in cases as to be found in his Bill, I



think, therefore, Mr Speaker, Sir, the intention of the Minister must be clear as *travaux parlementaires* are usually used for interpretation purposes. So, reinstatement, according to me, should be possible for reasoning of unjustified dismissal and, obviously, it should be at the option of the employed. As I said, the Industrial Court should be able to pronounce on either reinstatement or severance allowance. Obviously, the powers of the Industrial Court will have to be reviewed in the House if the hon. Minister wants to achieve real progress on reinstatement.

Mr Speaker, Sir, I will not dwell long on the question of bargaining, on the question of section 70(7)(ii), but let me tell the hon. Minister candidly. To us, no doubt the industrial conflict between the MSPA and the unions - the GWF and the JNP - have inspired the Minister to amend the existing section 72 of the ERA whereas under the existing provisions one cannot participate in a strike if the strike occurs on an issue which is already covered in a collective agreement or an award in force, the hon. Minister, in December last, came with the following proposal. I am quoting the law -

“A person shall not take part in a strike or lockout where the strike or the lockout occurs whilst a collective agreement or an award relating to wages and conditions of employment is in force.”

This, obviously, Mr Speaker, Sir, and, rightly so, provoked the unions to the extent that they felt that the right to strike under section 76 was nullified by the backdoor. Another way of putting it: it is the *loi ad hominem* that is, when we pass a law to target somebody. In fact, in this case we are passing the law to target a specific situation and this is why I think we should disagree with what the hon. Minister is saying. I will remind the hon. Minister that when he was under pressure by the unions while the MSPA and the unions negotiations were going on, the hon. Minister himself rejected the proposal that was put forward by the *patrons*, by the MSPA on the same issue as the amendment that he is now proposing. Isn't that true? I am sure the hon. Minister will remember that when the MSPA union negotiations were going on, the MSPA came with a proposal which the hon. Minister is proposing today in this House. But, at that time, the hon. Minister was not agreeable. But, it seems now that the hon. Minister is aligning himself with the sugar industry employers and closing the door on issues not covered by the collective agreement.

Mr Speaker, Sir, this is why we say that the provisions existing under the Employment Relations Act should be maintained in order to preserve industrial peace in this country. We are jeopardising the right to strike, if we go along with this amendment, section 76 would be an empty shell and of no value. Mr Speaker, Sir, the question of labour disputes also has been dealt with and I do not think I will dwell further on this issue.

I will come to the question of section 92, Mr Speaker, Sir. In his book '*Introduction au Droit du Travail Mauricien*' by Dr. Daniel Fok Kan - who is well-known to all of us, who is unfortunately no more

in Mauritius now – has made some comments on section 92 of the Act and this is what he says, Mr Speaker, Sir, and I quote -

*« Par rapport à la grève le législateur va même plus loin pour prévoir une continuation du continuous employment en cas de grève illégale, à condition que ce soit pour la première fois que l'employé est absent pour une grève illégale. »*

The crux of section 92, the fundamental concept is 'continuous employment'. So, the section is not an anomaly or a mistake as suggested by the hon. Minister. It has been won over by the unions after long years of struggle, Mr Speaker, Sir. Therefore, this concept of employment relationship overrides the limited concept of contracts of employment. Basically, what section 92 does is to protect the regime of contract of employment and the employment relationship by not shifting the first time strike through unlawful into the regime of penal law. To us, therefore, this section needs to be maintained as we are convinced, besides all the arguments which have been put forward by my hon. friends on this side of the House, as industrial peace may be jeopardized if job losses are at stake if workers go on strike. This is why, Mr Speaker, Sir, the hon. Minister should revisit *sa copie* because workers going on strike, sounding a bell of warning in circumstances where they feel they have not had the ears of the authority. Therefore, for the sake of industrial peace, our suggestion is that we must maintain that section.

The hon. Minister has failed to consider a lot of points which have been advanced by the unions, Mr Speaker, Sir. The question of: overtime should not be calculated after 40 hours of work and not 90. The ILO Convention on shift works needs to be ratified. The amendment brought to do away with job contractors for the reason that there has been an *arnaque* between main contractors who want to share profits with sub contractors, to us is totally unacceptable as my friend hon. Obeegadoo has submitted. Rather than throwing out the baby with the bath water, the hon. Minister should have come with more stringent regulations with regard to job contractors and even impose health and safety and security provisions.

The hon. Minister must know the number of fatal accidents occurring on the site of the job contractors. Now, without permit, without any regulatory framework, they will be operating in a jungle, Mr Speaker, Sir and this deregulation tantamount to creating a jungle. In view of the many fatal accidents with regard to job contractors, we suggest that they should not be made to operate without a legal framework.

Mr Speaker, Sir, I will end by saying what I said at the beginning. We had thought together with the workers of this country and the unions that the new legislation that the hon. Minister would bring would build a stronger partnership, a sounder relationship in a democratic framework ensuring the proper

development of our economy, Mr Speaker, Sir. We were expecting a legal framework which would have been conducive to the advancement of the working class in this country. But, unfortunately, it has been a letdown, *une grande désillusion*, Mr Speaker, Sir. *Le ministre, d'après nous, s'est dérobé de ses responsabilités. C'est une autre occasion ratée, M. le président.* Labour legislation, I repeat, must be built on social, political compromises and negotiations. This, unfortunately, the hon. Minister has failed to do and this is why we are going to vote against these two Bills.

(12.57 p.m.)

**Mr Mohamed:** Mr Speaker, Sir, at the very outset I wish to convey my heartfelt thanks to Dr. the hon. Prime Minister for the trust he has placed in me for the steadfast support that he has extended to me through this very arduous task. I also wish to extend my thanks to all my colleagues who have always been fully supportive to me and to all those, on both sides of the House. I must say, I have listened to the hon. Leader of the Opposition and he was totally right when he rightly identified that I was not at all happy with the tenure and the manner in which the criticisms were put forward by some Members of the Opposition. However, I must say that when he came up with his intervention, I noted in there the wisdom, the experience, in that he, at least, had the courage in the Opposition to straightaway say that there were positive measures that he commended. Obviously, I do not expect the Opposition, and far from it, I never expected the Opposition to congratulate this Government or me, as hon. Minister of Labour, for what I had done. I expected exactly what I have heard but, I thank the hon. Leader of the Opposition for his tact in having addressed this whole issue and the manner in which he brought the views of the Opposition forward, which I believe was very constructive. We may not agree, we shall agree to disagree. But I say it again, the manner in which it was done, I thank him for that from the bottom of my heart. I make the difference between what was said by other Members of the Opposition.

But, then again, having said so, I would like to remind the hon. Leader of the Opposition that in 1988 I was not in kindergarten. Well, I thank him for the compliment. I am not that young. In 1988, I was already at University. It is 45 years already and 21 years as lawyer. *Si jeunesse savait si vieillesse pouvait!* In other words, we need one another. I do commend the hon. Member for his experience. I do recognise his experience. I must say that I have listened carefully to all orators, not only the hon. Member. I would like to react to their comments and suggestions. Before I go into the details, the first person who has intervened for the Opposition was hon. Soodhun. I was trying to delay what I have to say because I want him to come back and hear what I have to say. I am sure the hon. Member will come back in a few minutes, I hope so.

The Employment and Labour Relations Bill (No. XVIII of 2005) is, in fact, the Bill which was prepared following a White Paper of 2004 by the Government of the day, the MSM/MMM in those days.

As far as this Bill was concerned, it was introduced in the National Assembly and came for First Reading on 11 April 2005. The object of this Bill was to replace the Industrial Relations Act. This was verified in the Library. So, I guess that a lot of years have gone by, and obviously, hon. Soodhun or the hon. Members of the Opposition do not recall that they were in an Alliance then and they had brought a piece of legislation which was the Employment and Labour Relations Bill (No. XVIII of 2005) to the National Assembly. When I have listened to all the hon. Members of the Opposition and also to all hon. Members on this side of the House, I am not saying that they are *donneurs de leçon*. Far from it! I have just listened to the facts. The facts are that they have given or tried to give me a lesson. It is a fact. They have gone as far as to say that they are pro-workers, I am *pro-patron* and this Government is *pro-patron*. Fair enough, those are facts.

As I have said earlier on, Mr Speaker, Sir, I do not expect the Opposition to do anything else different. Some of them would say that it is their role to criticise. Normally, I would end up my speech with a quotation. I have thought that I would end up my summing today with a quotation on criticism. But, then again I am going to go for the quotation at the beginning of my intervention. Theodore Roosevelt, who was the 26<sup>th</sup> President of the United States, said -

“It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, who comes short again and again, because there is not effort without error and shortcoming; but who does actually strive to do the deeds; who knows the great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least he fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat”.

The Opposition came up with this Bill in 2005. I listened to them and I was under the impression that, for truth, they were talking with sincerity. I have no reason to say that they are not talking with sincerity. I thought that listening to them, they were *les plus grands défenseurs des droits des travailleurs*. I will go back in the history, Mr Speaker, Sir, and you would recall that in the early, mid and late 1970s; what did the Opposition do? They say history repeats itself, yes it does. Who are the politicians that we find in the Opposition today? What had they not said about the Industrial Relations Act, *la loi scélérate*. They have promised the world to the workers of this country that when they came to power, they would change the law. They would do away with l’IRA. I heard a hon. Member of the Opposition - if I am not mistaken, it was hon. Uteem - who talked about a Select Committee of 1982,

where they had studied the implications of doing away with l'IRA. But when you listened to all that have been said, anyone will start believing that really those are the only people in this country who hold a solution to the plight of the workers of this country. They are the ones who will speak the truth and give the solution to the workers, forever and ever. Amen! They hold the solution.

But, each and every time that those people who have spoken today, Mr Speaker, Sir, have had the opportunity while being in power, to come up with changes to the Labour legislations. Have they ever done it? That is the question that one has to answer.

*(Interruptions)*

The former Prime Minister, Sir Anerood Jugnauth; did he ever come up with any piece of legislation, to do away with l'IRA? No!

*(Interruptions)*

Then we had another former Prime Minister, the one who once upon a time - hon. Obeegadoo is comparing him to the stalwarts of the Labour Party. Post independence, the hon. Member has said that he has done a lot. I am not saying that he has not. But, what I was going to point out here is when he had the opportunity did he do anything? Did he? No!

*(Interruptions)*

As from 1982, when the former Leader of the Opposition was in power; did he do anything? No! Was he in jail then?

*(Interruptions)*

He was trying to send other people who were innocent to jail.

**Mr Speaker:** Hon. Minister, please address the Chair!

*(Interruptions)*

**Mr Mohamed:** You should find out who had him released?

What I would like to know here, Mr Speaker, Sir, is the Bill that was prepared by the former Minister of Labour, Industrial Relations and Employment. It was approved by Cabinet, chaired by the then Prime Minister, hon. Paul Raymond Bérenger, brought to this Parliament for First Reading and when I look at clauses 26 and 66 of that Bill, that will be of interest to the hon. Members of this House. Now, we have to know exactly how many hats do they wear? Are they really consistent with what they said? Or is it that when they get to the Opposition, all of a sudden they just change their hats in order to suit the occasion? I have only one hat and I do not change it ever. In clause 26 ...

*(Interruptions)*

The hon. Member is talking out of his hat right now.

In clause 26, misapplication of funds, it is said -

**“where on complaint from any member of a Trade Union or after any member of a Trade Union”,**

Here, we have certain hon. Members of the Opposition, who are coming to say that I am an anti-union and I am an anti-worker. I am interfering in the administration of the union issues; 5% brought down to 1% in terms of complaint for an investigation is too much for them. Here, according to what was prepared by the MSM/MMM Government, 1% was enough for a complaint. The Chief Registrar is of the opinion that the trade union is incurring expenditure.

*(Interruptions)*

So, I am sorry! One complaint, court or not court!

In section 66, they talked about their right to strike.

*(Interruptions)*

**Mr Obeegadoo:** The hon. Minister should not mislead the House, if he is quoting from a section of the law, he should read the section in its entirety and not mislead.

**Mr Mohamed:** The hon. Member said that I am misleading the House that is very serious. He just now refers to section 92 of the Employment Rights Act and when he referred to, he voluntarily decided to drop one word out of his interpretation and his reading. He refused to mention the word ‘unlawful’ and he himself said: “I am not referring to unlawful”, and when the hon. Attorney General referred to the word ‘unlawful’ he kept quiet. So, let me make it clear. I say it again: any one Member who makes a complaint, going to Court or not to Court, it shows that they deliberately brought in a Bill into this House where they wanted to meddle into the affairs openly and easily of the Union Movement. That is the truth and to substantiate what I am trying to say here, Mr Speaker, Sir, let me show them section 66. They talked about declaring of dispute, about *trahison*. Have they forgotten what they themselves approved in Cabinet and brought to this august Assembly in 2005?

**Mr Speaker:** Address the Chair, please!

**Mr Mohamed:** Yes, I am addressing the Chair!

**Mr Speaker:** Yes, don’t look back!

**Mr Mohamed:** Section 66 - they are saying that the Permanent Secretary is a member of the Executive and is being controlled by the Minister as far as supervision of strike ballots are concerned and it should not be the Permanent Secretary, because the Permanent Secretary is someone who is on the beck and call of the Minister. In other words, that is what they have said. But they have gone as far as to say that we have curtailed the right to declare a dispute and by extension directly we have curtailed the fundamental right to strike. This is what the Opposition has said. But what did they propose in 2005 in the first reading of this Bill approved by Cabinet of an MSM/MMM Government? The Permanent Secretary may reject a dispute made under section 65. In other words, reporting of a dispute relating to employment and labour relations may be reported to the Permanent Secretary by or on behalf of any party to the dispute. So, what they had proposed was reporting of a dispute to the Permanent Secretary and if the Permanent Secretary so decided he could reject that dispute, thereby closing the door to any possible strike at all by the workers of this country. Now, if this is not true, this forms part of the records of the National Assembly. One can try to shake one's head left right or even to the centre, but the fact is that this is now part of history. What the MSM/MMM Government does not want the people to know is that they have several hats. When they were in Government they have tried to stifle the right of the Trade Union Movement and the workers to go on for strike, but when they are in the Opposition, they wear another hat, because it suits their purpose.

*(Interruptions)*

Now, let me get to something else.

*(Interruptions)*

**Mr Speaker:** Silence!

**Mr Mohamed:** They talked Mr Speaker, Sir, about the ILO, about fundamental rights. I have here document, and hon. Obeegadoo was not here the last time when I was referring to this document, and the reason why I had mentioned that he was not here, is because as rightly pointed out by the hon. Leader of the Opposition, we, on this side of the House and, I, as Minister of Labour of this Government, I believe in consultation, and if they have seen all changes being brought even until the last minute it's because we want to continue consultations because consultations bring changes. But, last year, I wrote personally a letter to the former hon. Leader of the Opposition. Why did I write a letter to hon. Bérenger? It is because I thought it was important for me to get the views of the hon. Members of the Opposition. In that letter, I invited the Members of the Opposition to come forward with any suggestions, to meet wherever they wanted, at any time, I would make the move to come to them, to listen to them and I would want to know what their views were. Why I wanted to know their views is because I think that they have

experience, they have things that they could share, maybe they have their own position paper, maybe they could inspire themselves and come up with something constructive? We have listened to them since this afternoon talking about this legislation. They have only talked about that unions, the JNP, GWF have talked to me for the past two and a half years. Have we received any opinion or views or stand or position paper of the Parliamentary Opposition? The answer is no. The letter that I have sent *est restée lettre morte*. The letter that I have sent to the hon. Leader of the Opposition inviting them to meet on their agenda, wherever they wanted, was never answered until today. They could, at least, have written to me and say please refer to the 2008 debate! Not even that! There was not even an acknowledgement of receipt, but there was a comment by the hon. Leader of the Opposition in the press conference that said: he acknowledges having received *une lettre d'amour* from the hon. Minister of Labour, he said it. But I expected something from them. I is easy as Theodore Roosevelt has said –

“To come up today and say everything we are doing is wrong.”

But, as I say again, the only person whom I believe spoke with sincerity when he said that he thinks that there are positive measures there, is the hon. Leader of the Opposition, and I thank him again for that, and that is the big difference. It has been pointed out, Mr Speaker, Sir, that I have rushed with the amendments of the two Bills. Hon. Obeegadoo said obviously what I had stated during my intervention at the second reading must be different to what was proposed in the amendments he received yesterday. The answer to that, I say it very candidly, whatever I said in my intervention for the second reading is exactly letter to the letter, to the figure, to the *virgule*, to the full stop in what he received yesterday and all Members received yesterday as far as the amendments are concerned. There was an error in that he had received things that were not the final draft. That is why when we verified it, we said, wait a minute, they have not received what Cabinet has approved, and it has to be sent to them properly, as I had explained and expatiated upon, in my second reading. So, there is no difference. *S'il avait pris la peine de lire ce que j'avais dit dans mon discours la semaine d'avant*, he would have seen clearly that what I had said is exactly what is in the amendments that have been circulated since yesterday. But, then, again simply because one wants to criticise, simply because one have to be different, they cannot come and say that Government is doing anything positive. We've had experience, but the others in the Opposition they think that nothing has been done which is good. Nothing at all! I have not rushed. As far back as 2010 the Trade Union Movement made representations to the effect that the laws must be amended to safeguard the right of the workers.

There have been numerous *manifestations* that the Trade Union Movement has held in order to press for the review of the Acts. The Opposition must know what they want. They are saying that I am rushing; hon. Jugnauth said I have taken such a long time to bring it to Parliament. Which is which? Hon.



Jugnauth said that I have taken such a long time to come to Parliament; the others are saying I am rushing. Which is which? The House will recall all those *manifestations*. I would like to stress upon the fact that following the withdrawal of the two Bills, I received further representations from Union Groups under the '*Platform kont lalwa travay anti-travayer*' and the *Conseil des Syndicats*. I had meetings. I must say that the hon. Leader of the Opposition says that I should have treated them the same way.

(Interruptions)

Because you have said it, I want to say what exactly happened. Mr Speaker, Sir, last year, I received representations about this whole issue of the First Reading of the Bill. When it was coming for Second Reading at lunchtime, I had already asked my officer, the Director, Mr Ramasamy, to call all the trade unionists - he is now retired and I pay homage to him. I wanted to see them in my office, because following my meeting I had to decide whether I would proceed or not with the amendments or whether I would move for Second Reading or not. He managed to reach every single trade unionist by telephone. He told them to come and meet the hon. Minister to see whether we can come to a decision. The hon. Prime Minister was made aware of that decision and the Joint Negotiating Panel (JNP) and GWF responded by rejecting the invitation and launching insults against my person on the telephone to my Director. That was the attitude. Fair enough! I decided to meet whoever was ready to meet and I had taken the decision not to proceed for the Second Reading. Following that, while I was meeting the trade unionists, Jane Ragoo, Reaz Chuttoo, Atma Shanto, Benydin and others, Jane Ragoo received a phone call from Mr Ramjuttun of the JNP. We were present while she was having this phone call and, once again, she did not agree with what was said to her, that she should not be discussing with the hon. Minister, but that they should be in front of Parliament on the day that Parliament is sitting pour *une manifestation*. All be it illegal, it does not matter. This is the attitude. So, do not come and tell me that I did not give them the chance to talk. I wanted to talk with them until the last day. Why did I go to the ILO one week before coming to Parliament? It is because I wanted the ILO to give me their views. So, do not say that no one was treated the same way. They were treated *avec déférence, avec respect*, because I believe in trade unionism and I want to have a strong trade union. But, Mr Speaker, Sir, they decided to throw insults and threats to my person and this is not something that I am going to accept. I was there and I know what happened. The hon. Member was not there and he cannot talk about what happened. Unless he is used to talking about things when he was not there and he is used to relying to other people because it suits his purpose - that is the type of person he is anyway.

Taking into consideration those proposals, I received...

(Interruptions)

I am happy that he asked. I had meetings with the ILO. One thing I would like to say here, certain trade unions have expressed their satisfaction because they are talking unanimously that the Trade Union Movement is not happy. Certain trade unions have expressed their satisfaction to the amendments that I have proposed. Here, I can refer to a letter that I received from the '*Platform kont lalwa travay anti-travayer*', where it is clearly stated - to cite one example - in a correspondence dated 26 March 2013 addressed to my Ministry that they acknowledged that many of their proposed amendments have been retained by me. According to them, in the Employment Rights (Amendment) Bill, nineteen of their proposals have also been retained and in the Employment Relations Bill, six of their proposals have also been retained.

Even Mr Ashok Subron of the Joint Negotiating Panel (JNP) does not deny that the amendments I am proposing include positive proposals which go in line with our objective to further protect workers of this country and improve their condition of work. Mr Subron expressed reservations on the issues of first time strike, limitation on report of labour dispute while a collective agreement is in force and the organisation strike ballot by trade unions in the presence of the Supervising Officer of my Ministry.

As far as first time strike is concerned, Mr Speaker, Sir, hon. Members here and the hon. Leader of the Opposition have made reference to Convention 158, if I am not mistaken. I am talking about the first time strike, at section 9 (2) of the Employment Rights Act and even with regard to the Convention that we have ratified on the freedom of association. Nowhere is it said in that Convention, as I said last time, that a first time strike illegal all be it is in order. That is why, here, I come back to this document of the ILO - which is in my possession - which has been written by the ILO following meetings with them, and I will table this whole document today. I will not in any way hide anything, I want to be transparent. I want all hon. Members of the Opposition and the country at large, Mr Speaker, Sir, to know exactly what the ILO told me, because when I communicated with the ILO, I did not give them only what we wanted - as you will see in this document.

They were put in presence of the proposals of all the unions, including the proposals of Mr Ashok Subron, the GWF and the Joint Negotiating Panel. They were in presence of the proposals of the '*Platform kont lalwa travay anti-travayer*'. They were in presence of all the proposals of all the confederations and they sent me this document where, clearly, they make certain observations. I understand the hon. Leader of the Opposition says that they were against the removal of the Termination of Contract Service Board. What was the Termination of Contract Service Board? The Termination of Contract Service Board is precisely where dismissals must be authorised by a public authority; dismissals for economic reasons or structural reasons - or what have you - need to be authorised *au préalable* by a public authority.

There is a document which is being prepared by Ms Angelika Muller in 2011. She works for the ILO and there is a document which she prepared, as an expert, entitled 'Employment Protection Legislation tested by the Economic Crisis: a global review of the regulations of collective dismissals for economic reasons', prepared by the Industrial and Employment Relations Department, ILO, Geneva.

What the Opposition wants us to do, therefore, is to reinstate - if I understand correctly - the Termination of Contract Service Board. They want us to do exactly what 17.6% of countries out of the 125 countries practise. The Opposition wants us, and certain union members, to do exactly what is done in Afghanistan, Angola, Colombia, Congo, Egypt, Gabon, Greece, Honduras, India, Iran, Jordan, Mexico, Morocco, Netherlands, Pakistan, Panama, Seychelles - and Seychelles are doing away with it - Spain, Sri Lanka, Syria - even India is doing away with it - and Zimbabwe. 17.6% of countries of the 125 of the ILO members, before dismissing someone for economic reasons, need to be authorised by the public authorities. What we are proposing and what is being proposed in this Bill is that the law requires the employer to consult workers' representatives - as is proposed here, it is mandatory - and inform the competent public authorities.

67% of countries of the ILO do exactly that and, out of it, when you look at the list of those countries you have successful countries, successful economically, where people are happy because of the economic success of the country. So, the Opposition, just because they want to side with the union movement - for political gain - they are ready to sacrifice the national gain of this country. But, is it not simply because they side with what Mr Subron wants: the possibility to carry out an illegal strike? What I fail to understand is that hon. Obeegadoo has quoted section 9(2) of the Employment Rights Act having wilfully avoided to mention the word stipulated in the statute 'unlawful' and he goes as far as to say that we are in some way attacking the fundamental rights to strike off the workers of this country. If that is what he honestly believes, Mr Speaker, Sir, then he is oblivious - I am sure he is not - of section 83 of the Employment Relations Act of 2008 because section 83 clearly also states that if someone carries out a strike in a lawful manner, he cannot in any way be fired. No measures can be taken against him. Why is it that he forgets that part of the law? At no time did he refer to section 83.

*(Interruptions)*

And I will table this document now...

*(Interruptions)*

...where it is clearly stated that everything that this Government has proposed in this Bill, does not, in any way, go against the fundamental right of strike. The law is clear; you have a right to strike but it should be done lawfully in line with the freedom of association convention that we have ratified, in line with the

provisions of the law that countries of the ILO have ratified. What is shocking here is that once again when one looks at the rhetoric of hon. Obeegadoo, it is clear that he has to criticise for the sake of criticising because he himself he is not convinced in his own criticism. He is not even convinced because if he were to be convinced, he does not hold a single logical argument to try to explain how is it, therefore, that the Committee of experts of the ILO agree with what I am saying? How is it? The ILO has come to Mauritius; almost ten times they have sent delegations to Mauritius to meet the Government, to meet the employers and unions in order for us to finalise the law. They have come to Mauritius ten separate times, but then, again, am I to practise the same policy of the former MSM/MMM Government? Which is simply what? Promise to change the IRA and do away with it! But not even do an iota to do that. They have even been able to get rid of it. Why is it, therefore, that each and every time that they promise to the workers of this country that they would get rid of the IRA when they had the opportunity of doing so, why is it that they did not do it? Five years they were in power, 2001 to 2005, why is it that they could not do so?

*(Interruptions)*

Two months before an election in order to achieve what? Political clout with the unions! Why is it that they did not do it? I will also say something else. Hon. Soodhun was not here, Mr Speaker, Sir. Strike was, in fact, threatened by the Bill. Why was it threatened? He was not here, I repeat myself.

*(Interruptions)*

I will table a copy. It is already in the Library.

*(Interruptions)*

Mr Speaker, Sir, as I have said, and for those who have not understood, I will say it again.

*(Interruptions)*

To report a labour dispute is what you had to do in order to carry out a strike. You had to report a labour dispute first and the dispute had to be reported to the Permanent Secretary and the Permanent Secretary has the right to reject the labour dispute. In other words, using their own argument, the Executive could stop and *barer la route à la grève* which was their fundamental right.

*(Interruptions)*

Mr Speaker, Sir, as I have already stated, the House will surely agree that once a collective agreement has been concluded, industrial peace must prevail. That is also what the ILO says -

“During the lifespan of the collective agreement, a trade union cannot report every now and then a labour dispute on new issues.”

At this point, Mr Speaker, Sir, allow me to bring before the House some clarifications because there seems to be confusion, maybe it is on purpose or maybe not. The clarification is as to whether the above amendments *mettent en cause* the agreement. That is very important. The amendments which I am proposing, *est-ce que cela met en cause l'accord qui a été signé entre le* Mauritius Sugar Producers Association and the Joint Negotiating Panel in August 2012 upon my intervention? Following the MSPA's decision to decentralise as from January 2013, the negotiations for a new collective agreement to take effect *en janvier 2014* at the level of each of its 15 members, the JNP reported to the Commission for Conciliation and Mediation, a labour dispute on two issues not covered by the collective agreement which binds the MSPA and the JNP up to December 2013. On the non-settlement of the dispute at the level of the CCM, the JNP opted to have recourse to strike action. I intervened and an agreement was reached between the MSPA and the JNP in August 2012. The agreement provides *inter alia* that the MSPA, the JNP and the other recognised trade unions shall engage in negotiations as from January 2013 for the conclusion of a new collective agreement that will take effect as from 01 January 2014. All existing procedure agreements shall continue to remain in force as from 17 August 2012 up to 30 June 2016. Any collective agreement reached between the MSPA, the JNP and other recognised unions will be upheld in its entirety by the individual sugar companies. The Ministry of Labour has to withdraw 21 issues referred to the NRB and to refer to only 3 issues concerning night shift, retirement age and computation of gratuity on retirement on the basis of 2.5 months per year of service, the MSPA and the 15 individual companies, to withdraw their application for judicial review at the level of Supreme Court and the JNP to call off strike action.

In the Employment Relations (Amendment) Bill circulated in December 2012, it was proposed to amend section 67 of the Act and to provide also that - 'where a labour dispute is reported to the President for the Commission for Conciliation and Mediation, no party to the dispute may report a labour dispute relating to wages and conditions of employment where collective agreement is enforced.'

Following the point made by the Joint Negotiating Panel on the issue in their memorandum to the hon. Prime Minister, the proposed amendment was reconsidered and in the proposed amendment to the Amendment Bill to be moved at Committee Stage, it is being proposed to remove the above proposed amendment and to provide instead - and that is where it is important - that where a labour dispute is reported to the President of the CCM, no party may report a labour dispute while a collective agreement is enforced on matters relating to wages, terms and conditions of employment which are contained in the collective agreement or have been canvassed during a negotiation process leading to the collective agreement. On the other hand, disputes on issues not canvassed can be reported only during the period of renegotiation for the renewal of the collective agreement.

So, everyone who has spoken on the part of the Opposition, they have simply forgotten to mention that there is a change where the three months are statutorily being provided for minimum period for renegotiation and that during those three months, the issues are different. The issues can be raised again. The aim of this new proposed amendment is to allow a trade union, while a collective agreement is in force, to report during the renegotiation period a labour dispute on terms and conditions of employment which were not canvassed during the bargaining process of the collective agreement. If some issues were not canvassed at all during the three months or any other longer periods as provided for in the collective agreement, they may be raised and disputes can be declared and they can go for a strike if they decide to do so, but lawfully.

I wish, Mr Speaker, Sir, therefore, to reassure the House that there is nothing in the proposed amendments which puts *en cause* the agreement between the MSPA and the Joint Negotiating Panel. The more so, the MSPA is bound to start negotiations with the Joint Negotiating Panel in January 2013, to renew the collective agreement that will expire in December 2013. I must also add that according to information that I have, no negotiation request has been sent to the MSPA by the Joint Negotiating Panel. We are already in April 2013. They could have started negotiations in January 2013 according to the agreement. They have not sent a request for negotiation as yet. The MSPA and the 15 individual sugar companies have already withdrawn their applications for judicial review and I have already withdrawn the 21 issues before the NRB and referred only the three issues as agreed by the parties.

Mr Speaker, Sir, it is very difficult, if not to say impossible, to accede to all proposals made by the trade union movement. It is so easy to sit down in the Opposition and say they would accede to the request of the trade union movement. The trade union movement has been very critical of the Opposition. Mr Subron, particularly, has been so critical of the Opposition because he has accused them of being quite resigned from their official responsibility to supposedly agree with him. Now, in order to catch up - because they were caught sleeping - they are siding with the trade unions. But what had they done when - I say it again - *ils ont été au pouvoir en 2000 jusqu'au 2005? Ils ont eu l'occasion de faire tout ce qu'ils ont promis aujourd'hui. Ils ont eu l'occasion de venir de l'avant avec des pieces of legislations to really substantiate that they really mean what they say, that they would have really put it into action when they had the opportunity, Mr Speaker, Sir. They failed lamentablement.*

I have always let myself be guided by the fundamentals of industrial relations whereby the interests of the workers have to prevail. However, any responsible Government has to ensure that the business environment is conducive for growth and it provides space for enterprises to operate. Enterprises create jobs when there is stability and when the law is certain. In 2011, hon. Jugnauth always talked about the jobs that were lost, 18,000 jobs. I honestly, Mr Speaker, Sir, have the impression that the Members of

the Opposition are playing an interesting game of willfully forgetting the facts as they are. They talked about 18,000 jobs having been lost because of those two pieces of legislation. What have we done? We are coming up with legislation. What are we doing to stop the abuse? We are coming up with legislation. What did they do when people lost their jobs? *Entre 2001 et 2005*, more than 50,000 people lost their jobs for economic reasons. Those are the Central Statistics figures - I am sorry - they talked about the TCSB; they talked about 57,593 people lost their jobs *entre 2001 et 2005*. Did they have the Workfare Programme then for them to get anything? Did they have the transitional unemployment benefit for the workers to get anything? No! They were left *sans filets de protection*. That is what was a caring MSM/MMM Government that was caught napping on the job!

*(Interruptions)*

I am sorry, they are full of good suggestions, but when the time comes to prove that they can really conclude and implement what they really say, they have been tried, they have been tested and they have failed. Let me reassure the House, Mr Speaker, Sir, that the proposed amendments will afford additional protection to the workers and will, in no way, curtail their acquired rights. One cannot talk about acquired rights by making something unlawful become lawful. That does not make legal sense. That is not an acquired right. I wish, Mr Speaker, Sir, to stress on the fact that the new provisions of shift work are called for in the prevailing context where many enterprises have to operate on a 24/7 basis.

Moreover, such provisions will contribute to enhance protection not only to workers performing night work, but also to female workers before and after child birth. Actually, Mr Speaker, Sir, there is no legal framework for workers working on shift work. This leads to an abusive situation where workers work for more than 6 days consecutively. Night work being the hardest, a 10% allowance for such workers is fully justified. But then again, I recognise that the hon. Leader of the Opposition has congratulated Government for this ...

*(Interruptions)*

...or has failed to congratulate. But, obviously, he will never congratulate Government because his job is to criticise and full stop.

Now, with regard to the fixed term contract, we had an opportunity to bring changes to legislations. We have done it for fixed term contract, but instead of trying to say: well, those are means that are different, those are measures that are new, those are measures that are modern, daring, the Opposition says it will not work. But, as hon. Jugnauth said, let us see, maybe it will, but he will criticise in the meantime.

Now, with regard to the Employment Promotion and Protection Division, I have already commented on it. I do not want to follow practice in 17% of countries of the ILO. I want to follow what is already tried and tested and has shown success to certain economies in more than 60% of countries.

Now, with regard to the nonpayment of recycling fee by employer in cases of gross misconduct, as the law stands now, a worker who commits a gross misconduct and is subsequently dismissed may join the Workfare Programme and the employer is bound to pay the recycling fee. This goes against the spirit of natural justice. The new provisions that recycling fee will not be payable in case of gross misconduct, has been introduced because certain employers have refused to pay the recycling fee contending that such a provision is against the Constitution. At any rate, the fact that an employer will not pay the recycling fee will not debar the worker from joining the Workfare Programme to benefit from the transitional unemployment benefits. Besides, Mr Speaker, Sir, let me remind the House that under the repealed Labour Act, a worker dismissed on ground of misconduct was not entitled to any severance allowance or compensations. Whereas now, it is different, better than the position at the Labour Act.

With regard to the job contractor situation, once again, the Members of the Opposition have forgotten one important part. As I had said in my intervention for the second reading, the proposal to remove the obligation on a job contractor to hold a permit aims at easing business, democratising economy and promoting entrepreneurship. They may not agree with it. However, that is the most important limb that they voluntarily forget. It should be noted that the job contractor falls within the definition of employer and as such the legal responsibilities and duties that are on the job contractor still remain. The only thing is that he does not need a permit to make himself be a contractor. That is the difference. *La responsabilité* before the law is there. Once again, we do something which is different; we do something that is in the interest of entrepreneurship; we do something keeping in mind the importance of legal duty and responsibility *aux yeux de la loi*, the Opposition will again find something wrong to say about it because it suits them.

*(Interruptions)*

As far as process of recognition of trade unions is concerned, with regard to limitation of the right to strike, I have talked about that; investigation by Registrar, it was worse under the Bill of 2005. As I have said, the group of workers, in the absence of recognised trade unions, we are not proceeding with that.

Mr Speaker, Sir, those amendments I am proposing today are in line with the vision of our Government to provide a legal framework where the workers' rights, interests and welfare are fully safeguarded without jeopardising the sound business environment. Furthermore, those amendments are in line with the decent work agenda which is the primary goal of the ILO; the decent work as advocated by



the ILO encompasses work which is productive and generates a fair income; security at workplace; social protection for families as well as better prospects for personal development and social integration. In fact, we have been guided throughout the process of amending the labour legislation by the four strategic objectives of the ILO namely the creation of jobs; guaranteeing rights at work; extending social protection and promoting social dialogue.

As far as guaranteeing rights at work, I have already expatiated upon it, but, most importantly, one of those four strategic objectives of the ILO, as I have said, is the creation of jobs. In 2011, 3000 new jobs were created. In 2012, 9000 new jobs were created. Those are important facts and figures. Our approach is that of a responsible Government. We have heard the voice of workers. We understand the expectations and apprehensions. We also understand the realities of our economy. We have to settle for what is best in the interests of the country. Those diverging interests can be reconciled, what is required is that we put aside our personal gains. We have done that on the side of Government. We have decided to be responsible. We have decided to put aside any personal agenda; any personal gain. We have not tried to be *bassement* politicians with regard to those issues. What we need here is industrial peace. Those amendments proposed are bold and daring, but they remain compliant with international instruments which we have an obligation to observe. The amendments are groundbreaking because they challenge the *status quo*, a *status quo* which some want to keep to suit their personal agenda, as I have said, and thrive thereon. Government philosophy is clear and unambiguous. We want to protect workers yet we want to also preserve their jobs and we want to create new jobs. We want to increase job security; at the same time, we want the workers to continue to draw income in a guaranteed manner but, above all, we want a stable Mauritius. There is no other high imperative than industrial peace for our economy and this Government has the firm conviction of not compromising the future of our citizens. I do not want to live the days again and I do not want to see the days again. The people of this country do not want to see the days again when we have *ce qu'on appelait la grève sauvage*. We do not want to see the days again where people from Vacoas Transport have had to come and suicide because, of desperate situations, they have been put in by people who had their own agenda and have created illegal strikes in this country for their political benefit and political gain. We do not want to see those days again. We want industrial peace and stability in this country. This is what we want to do. People here talk about the modern. I am a member of the Labour Party. I have told about the stalwarts of the Labour Party. When it suits the MMM and the MSM they criticised the stalwarts of the Labour Party when it suits them again they will pay homage to the stalwarts. I have heard hon. Pravind Jugnauth talk about Sir Abdool Razack Mohamed would not be happy about what I am doing.

(Interruptions)

**Mr Speaker:** Carry on!

**Mr Mohamed:** What is really shocking is that it suits the MSM today to make reference to Sir Abdool Razack Mohamed, but they are the very people who contributed to his downfall and destruction by a campaign of lies and calumnies against his person so please let us, at least, try to be honest in our approach. We will be judged for the actions we have taken in difficult times not by the White Paper and the Bill that we will bring at the end of our mandate and we have not failed to keep our promise. Like the MSM and the MMM, they have failed to keep their promise that they had promised prior to the 1982 elections and never kept that promise. So it is easy for them to come and talk. Inaction is not a solution. I do not want to do what the Opposition does - inaction, talk, committee as, once upon a time, they used to say even on *corbeaux* they had a lot of committees and actions. We realise the difficulties in balancing the needs of workers; the needs of enterprises, but any responsible Government has to make a compromise taking into account the best interests of the nation.

To conclude, let me reassure the House that with a view to maintaining industrial peace and safeguarding the rights of workers, I deem it necessary to come up with such amendments which will undoubtedly improve further the industrial relations climate. I also wish to point out that my task has far from being easy but I remain confident that my proposals will generate a win-win situation for all stakeholders.

Before I go to my endnote, I had representations only yesterday from workers, from employers groups who are very angry at this moment in time. Why? Because we are bringing changes in the legislation, Mr Speaker, Sir, that talk about gratuity on retirement that is being calculated now based on our amendments; it will be calculated on earnings not on basic salary. We have gone as far as to say that it will be backdated to February 2009; therefore, those, who have already retired since February 2009 and have not benefitted from this calculation on earnings, will benefit from that calculation on earnings and interestingly enough the Opposition fait *l'impasse là-dessus* because it does not therefore suit their argument; of hon. Uteem to come and, in a very condescending insulting manner, say that I am *enn zom patron*. He said it. Why is it therefore that he did not raise the issue of gratuity on retirement having been changed by this Government and proposed by me, the Minister of Labour, to calculate it on earnings, meaning to say there is a backdating since February 2009, meaning to say all those retired workers who have not benefitted will benefit. How is this pro-patron? It does not suit their logic that is why they keep quiet; there is a deaf ear to that. As an endnote,...

*(Interruptions)*

People go on, Mr Speaker, Sir, and say in 2008, I did not talk. They are so good at criticising and hon. Obeegadoo is so good at criticising in 2008 I did not talk. Maybe then I have to tell him what member of my family had died on that day and what funeral I had gone to, that is why I did not talk. So, before you talk, before anyone is going to make a comment, maybe then I should have shared the grief I had in my heart in 2008 when I went to the funeral of a member of my family. That is good of him at criticising because it suits him then he was happy there. I wish to make a humble appeal – I did that last time – to all hon. Members of the House. It is a golden opportunity that we have here to consolidate labour legislation, we have done so: the protection and the right of workers, the interest of workers and employers and the promotion of collective bargaining in a sound environment conducive to a partnership mode in the industrial system. The reason and the only reason that the Opposition - and I cannot say all the Opposition, I have to be honest not all the Opposition, not the hon. Leader of the Opposition, but hon. Obeegadoo - the reason why he is so adamant and critical about this; you know why he is critical because what he does not realise, hon. Obeegadoo, is that in being so critical to those amendments, he is doing exactly what the employers want: congratulations, keep on working for them.

Thank you.

*Question put and agreed to.*

*Bill read a second time and committed.*

## **PUBLIC BILL**

### **COMMITTEE STAGE**

*(Mr Speaker in the Chair)*

### **THE EMPLOYMENT RELATIONS (AMENDMENT) BILL**

**(No. XXXI of 2012)**

*Clauses 1 and 2 ordered to stand part of the Bill.*

*Clause 3 (Section 2 of principal Act amended).*

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

**Mr Mohamed:** I move for the following amendments in clause 3 –

- (i) by deleting paragraphs (a), (b), (d) and (e);
- (ii) in paragraph (c), by deleting subparagraph (i), and
- (iii) in paragraph (g), by deleting the definition of “group of workers”.

*Amendment agreed to.*

*Clause 3, as amended, ordered to stand part of the Bill.*

*Clause 4 ordered to stand part of the Bill.*

*Clause 5 (Section 7 of principal Act amended).*

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

**Mr Mohamed:** I move that in clause 5, paragraph (b) be deleted.

*Amendment agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*

*Clause 6 ordered to stand part of the Bill.*

*Clause 7 (Section 14 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 7 be deleted.

*Amendment agreed to.*

*Clause 8 (Section 16 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 8 be deleted.

*Amendment agreed to.*

*Clause 9 (Section 20 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 9 be renumbered as clause 7.

*Amendment agreed to.*

*Clause 9 renumbered 7 accordingly.*

*Clause 7 ordered to stand part of the Bill.*

*Clause 10 (Section 21 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 10 be renumbered as clause 8.

*Amendment agreed to.*

*Clause 10 renumbered 8 accordingly.*

*Clause 8 ordered to stand part of the Bill.*

*Clause 11 (Section 28 of principal Act amended).*

*Motion made and question proposed: "that the clause stands part of the Bill".*

**Mr Mohamed:** I move that clause 11 be renumbered as clause 9.

*Amendment agreed to.*

*Clause 11 renumbered 9 accordingly.*

*Clause 12 (Section 29 of principal Act amended).*

*Motion made and question proposed: "that the clause stands part of the Bill".*

**Mr Mohamed:** I move that clause 12 renumbered as clause 10 be amended as follows –

**"12. Section 29 of principal Act amended**

Section 29 of the principal Act is amended, in subsection (1) –

- (a) in paragraph (a), by deleting the words "to establish" and replacing them by the words "subject to subsection (1A), to establish";
- (b) by inserting, after subsection (1), the following new subsection –

(1A) A worker shall have the right to join only one trade union, of his own choice, in the enterprise where he is employed or his bargaining unit."

*Amendment agreed to.*

*Clause 12 renumbered 10 accordingly.*

*Clause 10, as amended, ordered to stand part of the Bill.*

*Clause 13 (Section 31 of principal Act amended).*

*Motion made and question proposed: "that the clause stands part of the Bill".*

**Mr Mohamed:** I move that clause 13 be renumbered as clause 11.

*Amendment agreed to.*

*Clause 13 renumbered 11 accordingly.*

*Clause 11 ordered to stand part of the Bill.*

*Clause 14 (Section 32 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 14 be deleted.

*Amendment agreed to.*

*Clause 15 (Section 35 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 15 be deleted.

*Amendment agreed to.*

*Clause 16 (Section 36 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 16 be renumbered as clause 12.

*Amendment agreed to.*

*Clause 16 renumbered 12 accordingly.*

*Clause 12 ordered to stand part of the Bill.*

*Clause 17 (Section 37 of principal Act repealed and replaced).*

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

**Mr Mohamed:** I move that clause 17 be renumbered as clause 13.

*Amendment agreed to.*

*Clause 17 renumbered 13 accordingly.*

*Clause 13 ordered to stand part of the Bill.*

*Clause 18 (Section 38 of principal Act repealed and replaced).*

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

**Mr Mohamed:** I move that clause 18 be renumbered as clause 14.

*Amendment agreed to.*

*Clause 18 renumbered 14 accordingly.*

*Clause 14 ordered to stand part of the Bill.*

*Clause 19 (New Section 38A inserted in principal Act).*

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

**Mr Mohamed:** I move that clause 19 be deleted.

*Amendment agreed to.*

*Clause 20 (Section 39 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 20 be renumbered as clause 15.

*Amendment agreed to.*

*Clause 20 renumbered 15 accordingly.*

*Clause 15 ordered to stand part of the Bill.*

*Clause 21 (Section 40 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 21 be deleted.

*Amendment agreed to.*

*Clause 22 (Section 41 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 22 be deleted.

*Amendment agreed to.*

*Clause 23 (Section 51 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 23 be renumbered as clause 16.

*Amendment agreed to.*

*Clause 23 renumbered 16 accordingly.*

*Clause 16 ordered to stand part of the Bill.*

*Clause 24 (Section 53 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 24 be deleted.

*Amendment agreed to.*

*Clause 25 (Section 55 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 25 be renumbered as clause 17.

*Amendment agreed to.*

*Clause 25 renumbered 17 accordingly.*

*Clause 17 ordered to stand part of the Bill.*

*Clause 26 (Section 57 of principal Act amended).*

**Mr Mohamed:** I move that clause 26 be renumbered as clause 18.

*Amendment agreed to.*

*Clause 26 renumbered 18 accordingly.*

*Clause 18 ordered to stand part of the Bill.*

*Clause 27 (Section 58 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 27 be renumbered as clause 19.

*Amendment agreed to.*

*Clause 27 renumbered 19 accordingly.*

*Clause 19 ordered to stand part of the Bill.*

*Clause 28 (Section 64 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 28 be renumbered as clause 20.

*Amendment agreed to.*

*Clause 28 renumbered 20 accordingly.*

*Clause 20 ordered to stand part of the Bill.*



*Clause 29 (Section 65 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 29 be renumbered as clause 21.

*Amendment agreed to.*

*Clause 29 renumbered 21 accordingly.*

*Clause 21 ordered to stand part of the Bill.*

*Clause 30 (Section 67 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 30 be renumbered as clause 22.

*Amendment agreed to.*

*Clause 30 renumbered 22 accordingly.*

*Clause 22 ordered to stand part of the Bill.*

*Clause 31 (Section 69 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 31 be renumbered as clause 23.

*Amendment agreed to.*

*Clause 31 renumbered 23 accordingly.*

*Clause 23 ordered to stand part of the Bill.*

*Clause 32 (Section 72 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 32 be renumbered as clause 24.

*Amendment agreed to.*

*Clause 32 renumbered 24 accordingly.*

*Clause 24 ordered to stand part of the Bill.*

*Clause 33 (Section 77 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 33 be renumbered clause 25.

*Amendment agreed to.*

*Clause 33 renumbered 25 accordingly.*

*Clause 25 ordered to stand part of the Bill.*

*Clause 34 (Section 78 of principal Act repealed and replaced).*

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

**Mr Mohamed:** I move that clause 34 be renumbered clause 26 and amended as follows -

**“34. Section 78 of the principal Act amended –**

- (a) in subsection (1) –
  - (i) by inserting, after the word “decision”, the words “to have recourse to a strike”;
  - (ii) by deleting the word “Commission” and replacing it by the words “supervising officer”;
- (b) in subsection (2), by deleting the words “a representative of the Commission” and replacing them by the words “the supervising officer”;
- (c) by repealing subsection (4).”

*Amendment agreed to.*

*Clause 34 renumbered 26 accordingly.*

*Clause 26, as amended, ordered to stand part of the Bill.*

*Clause 35 (Section 79 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 35 be deleted.

*Amendment agreed to.*

*Clause 36 (New section 79A inserted in principal Act).*

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

**Mr Mohamed:** I move that clause 36 be renumbered clause 27 and amended as follows –

“By deleting the words “provide a conciliation service to the parties to a labour dispute” and replacing them by the words “, at the request of parties to a labour dispute, provide a conciliation service with a view to conciliating the parties”.

*Amendment agreed to.*

*Clause 36 renumbered 27 accordingly.*

*Clause 27, as amended, ordered to stand part of the Bill.*

*Clause 37 (Section 80 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 37 be deleted.

*Amendment agreed to.*

*Clause 38 (Section 81 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 38 be deleted.

*Amendment agreed to.*

*Clause 39 (Section 85 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 39 be renumbered clause 28.

*Amendment agreed to.*

*Clause 39 renumbered 28 accordingly.*

*Clause 28 ordered to stand part of the Bill.*

*Clause 40 (Section 86 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 40 be renumbered clause 29.

*Amendment agreed to.*

*Clause 40 renumbered 29 accordingly.*

*Clause 29 ordered to stand part of the Bill.*

*Clause 41 (Section 95 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 41 be renumbered clause 30.

*Amendment agreed to.*

*Clause 41 renumbered 30 accordingly.*

*Clause 30 ordered to stand part of the Bill.*

*Clause 42 (Section 99 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 42 be renumbered clause 31.

*Amendment agreed to.*

*Clause 42 renumbered 31 accordingly.*

*Clause 31 ordered to stand part of the Bill.*

*Clause 43 (Section 100 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 43 be renumbered clause 32.

*Amendment agreed to.*

*Clause 43 renumbered 32 accordingly.*

*Clause 32 ordered to stand part of the Bill.*

*Clause 44 (Section 102 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 44 be renumbered clause 33.

*Amendment agreed to.*

*Clause 44 renumbered 33 accordingly.*

*Clause 33 ordered to stand part of the Bill.*

*Clause 45 (Section 103 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 45 be renumbered clause 34.

*Amendment agreed to.*

*Clause 45 renumbered 34 accordingly.*

*Clause 34 ordered to stand part of the Bill.*

*Clause 46 (Section 104 of principal Act amended).*

*Motion made and question proposed: "that the clause stands part of the Bill".*

**Mr Mohamed:** I move that clause 46 be renumbered clause 35.

*Amendment agreed to.*

*Clause 46 renumbered 35 accordingly.*

*Clause 35 ordered to stand part of the Bill.*

*Clause 47 (Second Schedule to principal Act amended).*

*Motion made and question proposed: "that the clause stands part of the Bill".*

**Mr Mohamed:** I move that clause 47 be renumbered clause 36.

*Amendment agreed to.*

*Clause 47 renumbered 36 accordingly.*

*Clause 36 ordered to stand part of the Bill.*

*Clause 48 (Fourth Schedule to principal Act amended).*

*Motion made and question proposed: "that the clause stands part of the Bill".*

**Mr Mohamed:** I move that clause 48 be deleted.

*Amendment agreed to.*

*Clause 49 (Savings and transitional provisions).*

*Motion made and question proposed: "that the clause stands part of the Bill".*

**Mr Mohamed:** I move that clause 49 be renumbered clause 37 and amended as follows -

- “(i) by deleting subclause (1), the existing subclauses (2) to (6) being renumbered (1) to (5), and

- (ii) in subclause (3), as renumbered, by deleting the words “subsections (1) and (5)” and replacing them by the words “subsection (4)”.

*Amendment agreed to.*

*Clause 49 renumbered clause 37 accordingly.*

*Clause 37, as amended, ordered to stand part of the Bill.*

*Clause 50 (Commencement).*

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

**Mr Mohamed:** I move that clause 50 be renumbered clause 38 and amended as follows –

To be deleted and replaced by the following clause –

**"50. Commencement**

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act."

*Amendment agreed to.*

*Clause 50 renumbered 38 accordingly.*

*Clause 38, as amended, ordered to stand part of the Bill.*

*Title*

*Motion made and question proposed: “that the title stands part of the Bill”.*

**Mr Mohamed:** I move to insert the following long title -

“To amend the Employment Relations Act”

*Amendment agreed to.*

*The title, as amended, was agreed to.*

*The enacting clause was agreed to.*

*The Bill, as amended, was agreed to.*

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

**THE EMPLOYMENT RIGHTS (AMENDMENT) BILL**

**(No. XXXII of 2012)**

*Clauses 1 to 4 ordered to stand part of the Bill.*

*Clause 5 (Section 8 of principal Act repealed and replaced)*

*Motion made and question proposed: "that the clause stands part of the Bill".*

**Mr Mohamed:** I move for the following amendments in clause 5 –

- (i) by numbering the proposed provision as subsection (1);
- (ii) in the newly numbered subsection (1) –
  - (A) by deleting the words "who employs 10 or more workers,";
  - (B) by inserting, after the word "Schedule", the words ", or in such form in French or Creole as may be prescribed";
- (iii) by adding, after the newly numbered subsection (1), the following new subsection –

(2) A copy of the statement of particulars shall be submitted to the Permanent Secretary within 30 days after the worker has completed 30 consecutive working days' service.

*Amendment agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*

*Clauses 6 and 7 ordered to stand part of the Bill.*

*Clause 8 (New section 14A inserted in principal Act.*

*Motion made and question proposed: "that the clause stands part of the Bill".*

**Mr Mohamed:** I move to amend clause 8, in the proposed new section 14A, as follows –

- (i) by deleting subsection (1) and replacing it by the following subsection –
  - (1) An employer shall not, without a worker's consent, require the worker on shift work –
    - (a) to work more than 8 hours in a day;

- (b) to perform night work on more than 4 consecutive nights, except in such sector or industry as may be prescribed.
- (ii) by inserting, after subsection (4), the following subsection, the existing subsection (5) being renumbered (6) –
- (5) Every worker shall be paid an allowance of 10 per cent of his basic wage in addition to his normal day's wage for work performed during night shift.

*Amendment agreed to.*

*Clause 8, as amended, ordered to stand part of the Bill.*

*New clause 8A (Section 19 of principal Act amended).*

*Motion made and question proposed: "that the clause stands part of the Bill".*

**Mr Mohamed:** I move that a new clause 8A be added as follows -

**“8A. Section 19 of principal Act amended**

Section 19 of the principal Act is amended by repealing subsection (1) and replacing it by the following subsection –

- (1) Notwithstanding any other enactment or Remuneration Regulations, where a worker is required to perform more than 2 hours' extra work after having completed a normal day's work, he shall, in addition to any remuneration due for overtime work, be provided by the employer with an adequate free meal or be paid a meal allowance as specified in paragraph (a) of the Third Schedule.”

**The Chairman:** The question is that new clause 8A be read a second time.

*Question put and agreed to.*

*New clause 8A ordered to stand part of the Bill.*

*Clauses 9 and 10 ordered to stand part of the Bill.*

*New clause 10A (Section 26 of principal Act amended).*



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

**Mr Mohamed:** I move that a new clause 10A be added as follows -

**“10A. Section 26 of principal Act amended**

Section 26 of the principal Act is amended by inserting, after subsection (2), the following new subsection –

(2A) Where an employer provides a worker with a means of transport under subsection (1), the employer shall pay to the worker wages at the normal rate in respect of any waiting time exceeding 45 minutes after he has stopped work.”

**The Chairman:** The question is that new clause 10A be read a second time.

*Question put and agreed to.*

*New clause 10A ordered to stand part of the Bill.*

*Clauses 11 and 12 ordered to stand part of the Bill.*

*Clause 13 (Section 30 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 13 be amended as follows –

“(a) by repealing subsection (1) and replacing it by the following subsection –

(1) A female worker who remains in continuous employment with the same employer for a period of 12 consecutive months immediately preceding the beginning of leave under this section shall, on production of a medical certificate, be entitled to 12 weeks’ maternity leave on full pay to be taken either –

- (a) before confinement, provided that at least 6 weeks’ maternity leave shall be taken immediately following the confinement; or
- (b) after confinement.

(b) by inserting, after subsection (1), the following new subsection –

(1A) Notwithstanding any other enactment or Remuneration Regulations and subject to subsection (2), where a female worker, who

remains in continuous employment with the same employer for a period of 12 consecutive months, gives birth to a child, she shall, on production of a medical certificate, be paid within 7 days of her confinement an allowance as specified in paragraph (b) of the Third Schedule.

- (c) in subsection (7), by deleting the words “or work during night shift”.”

*Amendment agreed to.*

*Clause 13, as amended, ordered to stand part of the Bill.*

*Clause 14 ordered to stand part of the Bill.*

*New clause 14A (New section 31A inserted in principal Act)*

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

**Mr Mohamed:** I move that a new clause 14A be added as follows -

**“14A. New section 31A inserted in principal Act**

The principal Act is amended by inserting, after section 31, the following new section –

**31A. End of year bonus**

(1) Where a worker remains in continuous employment with the same employer in a year, the worker shall be entitled at the end of that year to a bonus equivalent to one-twelfth of his earnings for that year.

(2) Every worker who –

- (a) takes employment during the course of a year;
- (b) is still in employment as at 31 December in that year; and
- (c) has performed a number of normal days' work with that employer, equivalent to not less than 80 per cent of the number of working days, during his employment in that year,

shall be entitled at the end of that year to a bonus equivalent to one-twelfth of his earnings for that year.

(3) A sum amounting to 75 per cent of the expected bonus specified in subsections (1) and (2) shall be paid to the worker not later than 5 clear working days before 25 December of that year, and the remaining balance shall be paid to him not later than on the last working day of the same year.

(4) For the purpose of this section, every day on which a worker –

- (a) is absent with the employer's authorisation;
- (b) reports for work but is not offered work by the employer; or
- (c) is absent on grounds of –
  - (i) illness after notification to the employer under section 28(4)(a); or
  - (ii) injury arising out of and in the course of his employment,

shall count as a working day.”

**The Chairman:** The question is that new clause 14A be read a second time.

*Question put and agreed to.*

*New clause 14A ordered to stand part of the Bill.*

*Clauses 15 to 17 ordered to stand part of the Bill.*

*Clause 18 (Section 38 of principal Act amended).*

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

**Mr Mohamed:** I move that clause 18 be amended as follows –

- “(i) in paragraph (b), by deleting subparagraphs (i) and (iii);
- (ii) by inserting, after paragraph (c), the following new paragraph –
  - (ca) in subsection (4), in paragraph (a), by deleting the words “; or” and replacing them by the words “, or both; or”;
- (iii) in paragraph (f), in the proposed new subsection (7)(b), by deleting the figure “7” and replacing it by the figure “10”.

*Amendment agreed to.*

*Clause 18, as amended, ordered to stand part of the Bill.*

*Clause 19 (New Part VIIIA inserted in principal Act).*

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

**Mr Mohamed:** I move that clause 19 be amended as follows –

“In the proposed new section 39B, to delete subsection (3) and replacing it by the following subsection –

(3) Notwithstanding this section, an employer shall not reduce the number of workers in his employment, either temporarily or permanently, or close down his enterprise unless he has –

- (a) in consultation with the trade union recognised under section 38 of the Employment Relations Act, explored the possibility of avoiding the reduction of workforce or closing down by means of –
  - (i) restrictions on recruitment;
  - (ii) retirement of workers who are beyond the retirement age;
  - (iii) reduction in overtime;
  - (iv) shorter working hours to cover temporary fluctuations in manpower needs; or
  - (v) providing training for other work within the same enterprise;
- (b) where redundancy has become inevitable –
  - (i) established the list of workers who are to be made redundant and the order of discharge on the basis of the principle of last in first out; and
  - (ii) given the written notice required under subsection (2).”

*Amendment agreed to.*

*Clause 19, as amended, ordered to stand part of the Bill.*

*Clauses 20 to 26 ordered to stand part of the Bill.*

*Clause 27 (Section 49 of the Principal Act amended).*

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

**Mr Mohamed:** Mr Chairperson, I move that paragraph (a) be deleted and replaced by the following paragraph –

“(a) by inserting, after subsection (1), the following new subsections –

(1A) (a) Where a worker who has attained the age of 60 remains in continuous employment with the same employer up to the retirement age, the worker and the employer may agree on an advance payment of the total gratuity payable at the retirement age, amounting to the gratuity payable at the age of 60 calculated in accordance with subsection (2).

(b) Advance payment of the gratuity, where agreed upon under paragraph (a), shall be effected upon the worker attaining the age of 60.

(1B) Notwithstanding any agreement or any provision to the contrary in any other enactment, an employer shall not require a worker to retire before the retirement age.”

*Amendment agreed to.*

*Clause 27, as amended, ordered to stand part of the Bill.*

*Clauses 28 to 31 ordered to stand part of the Bill.*

*New Clause 31A (Section 55 of principal Act repealed).*

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

**Mr Mohamed:** I move that a new clause 31A be inserted after clause 31, by adding the following new clause –

**“31A. Section 55 of principal Act repealed**

The principal Act is amended by repealing section 55.”

**The Chairman:** The question is that new clause 31A be read a second time.

*Question put and agreed to.*

*New Clause 31A ordered to stand part of the Bill.*

*Clauses 32 to 34 ordered to stand part of the Bill.*

*Clause 35 (Third Schedule to principal Act amended)*

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

**Mr Mohamed:** Mr Chairperson, I move that clause 35 be deleted and replaced by the following clause –

**“35. Third Schedule to principal Act amended.**

**The Third Schedule to the principal Act is amended –**

- (a) in paragraph (a), by deleting the words “Rs 50.00” and replacing them by the words “Rs 70.00”;
- (b) in paragraph (b), by deleting the words “[Section 30(1)(b)]” and “Rs 2,000” and replacing them by the words “[Section 30(1A)]” and “Rs 3,000”, respectively.”

*Amendment agreed to.*

*Clause 35, as amended, ordered to stand part of the Bill.*

*Clauses 36 to 38 ordered to stand part of the Bill.*

*Clauses 39 (Savings and Transitional Services).*

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

**Mr Mohamed:** Mr Chairperson, I move for the following amendment in clause 39 –

“(i) by deleting subsection (1) and replacing it by the following subsection –

“(1) Where, before the commencement of this Act, a worker and an employer have entered into one or more determinate agreements for a total period of more than 24 months as specified in section 5(3) of the principal Act, the agreement shall, at the commencement of this Act, be deemed to be an indeterminate agreement with effect from the date the first agreement was entered into.

(ii) by deleting subsection (2), the existing subsection (3) being renumbered (2).”

*Amendment agreed to.*

*Clause 39, as amended, ordered to stand part of the Bill.*

*Clause 40 (Commencement).*

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

**Mr Mohamed:** Mr Chairperson, I move to delete clause 40 and replace it by the following clause –

**“40. Commencement**

(1) (a) Subject to paragraph (b) and subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(b) Different dates may be fixed for the coming into operation of different sections of this Act.

(2) Section 27(d) shall be deemed to have come into operation on 2 February 2009.”

*Amendment agreed to.*

*Clause 40, as amended, ordered to stand part of the Bill.*

*Title*

*Motion made and question proposed: “that the title stands part of the Bill”.*

**Mr Mohamed:** Mr Chairperson, I move to insert the following long title –

**“To amend the Employment Rights Act”**

*Amendment agreed to.*

*The title, as amended, was agreed to.*

*The Schedules ordered to stand part of the Bill.*

*The enacting clause was agreed to.*

*The Bill, as amended, was agreed to.*

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

*Third Reading*

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

*(a) The Employment Relations (Amendment) Bill (No. XXXI of 2012)*

*(b) The Employment Rights (Amendment) Bill (No. XXXII of 2012)*

**Mr Ganoo:** Mr Speaker, Sir, I move for a division.

*(Division Bells were rung)*

*On question put, the House divided.*

**NOES**

1. Hon. R. Uteem
2. Dr. the Hon. R. Sorefan
3. Hon. S. Soodhun
4. Hon. M. K. Seeruttun
5. Hon. P. Roopun
6. Hon. Mrs L. Ribot
7. Hon. Mrs M. J. Radegonde-Haines
8. Hon. J. P. F. Quirin
9. Hon. S. Obeegadoo
10. Hon. Mrs A. Navarre-Marie
11. Hon. K. Li Kwong Wing
12. Hon. G. P. Lesjongard
13. Hon. Mrs F. Labelle
14. Hon. P. Jugnauth
15. Hon. P. Jhugroo
16. Hon. Mrs S. B. Hanoomanjee
17. Hon. A. K. Gungah
18. Hon. Mrs L. D. Dookun-Luchoomum
19. Dr. the Hon. S. Boolell
20. Hon. N. Bodha
21. Hon. J. C. Barbier
22. Hon. V. Baloomoody
23. Hon. S. M. A. Ameer Meea
24. Hon. R. A. Bhagwan
25. Hon. A. Ganoo



**ABSENT**

1. Hon. K. Ramano
2. Hon. D. Nagalingum
3. Hon. E. Guimbeau
4. Hon. J. F. François
5. Hon. C. M. Fakeemeeah
6. Hon. P. R. Bérenger
7. Hon. J. C. Leopold
8. Hon. S. Anquetil
9. Hon. L. H. Aimée
10. Hon. S. V. Faugoo
11. Dr. the Hon. N. Ramgoolam

**AYES**

1. Hon. Mrs P. K. Bholah
2. Hon. Mrs M. J. Perraud
3. Hon. D. S. Khamajeet
4. Hon. A. R. G. M. Issack
5. Hon. A. H. Hossen
6. Hon. J.H.T. Henry
7. Hon. P. G. Assirvaden
8. Hon. Mrs K. B. Juggoo
9. Dr. the Hon. B. Hookoom
10. Hon. Ms K. R. Deerpalsing
11. Dr. the Hon. R. R. Hawoldar
12. Hon. M. Peetumber
13. Hon. S. Moutia
14. Hon. Mrs M. F. Martin
15. Hon. J. Seetaram
16. Hon. S. Dayal
17. Hon. S. C. Sayed Hossen
18. Hon. L. Bundhoo
19. Hon. J. M. Yeung Sik Yuen

20. Hon. S. Mohamed
21. Hon. M. Choonee
22. Hon. S. Ritoo
23. Hon. L. J. Von-Mally
24. Hon. T. Pillay-Chedumbrum
25. Dr. the Hon. R. Jeetah
26. Hon. D. Virahsawmy
27. Dr.the Hon. V. Bunwaree
28. Hon. Mrs S. Bappoo
29. Dr. the Hon. A. T. Kasenally
30. Dr. the Hon. A. K. Boolell
31. Hon. A. Bachoo
32. Hon. X. L. Duval
33. Dr. the Hon. A. R. Beebeejaun

**AYES: 33**

**NOES: 25**

**ABSENCES: 11**

**Mr Speaker:** The Ayes have it.

*The following Bills were read a third time and passed –*

*(a) The Employment Relations (Amendment) Bill (No. XXXI of 2012)*

*(b) The Employment Rights (Amendment) Bill (No. XXXII of 2012).*

*At this stage the Deputy Speaker took the Chair.*

*Second Reading*

**THE BANKING (AMENDMENT) BILL**

**(No. II of 2013)**

*Order for Second Reading read.*

**The Vice-Prime Minister, Minister of Finance and Economic Development (Mr X. L. Duval):** Mr Deputy Speaker Sir, I move that the Banking (Amendment) Bill (No. II of 2013) be read a second time.

Mr Deputy Speaker Sir, to preserve the stability of the financial system in Mauritius, the Bank of Mauritius has requested foreign banks operating in Mauritius as branches of foreign companies to restructure themselves into locally incorporated subsidiaries. The Central Bank has also requested banks which, because of their size and importance, are becoming systemically important, to separate their banking from their non-banking activities.

Following the global financial crisis, many countries are encouraging branches of foreign banks to convert into local subsidiaries to avoid the risk of contagion. The risk with a branch is that if the parent company collapses, the assets of the branches may also disappear, whereas with a subsidiary, since the assets are owned by a different legal person, these assets are protected. Several countries like the United Kingdom, Australia and New Zealand have amended their respective laws on similar lines.

The scope of the present Banking Act is currently limited and does not provide for the Central Bank to direct a bank to merge or consolidate with another bank or to be set up as a separate entity.

In addition, under the current legislation the existing process for banks to restructure, that is, by way of private contract or pursuant to existing provisions under the Companies Act, is lengthy. In view of the systemic risk that the bank may pose, it is important for mergers, acquisitions and restructuring of banks be carried out in a fast, diligent and efficient manner.

It is with these objectives that we are proposing the amendments to the Banking Act through the Banking (Amendment) Bill. It will provide for an expedient process for banks to restructure their respective businesses subject to the approval of the Bank of Mauritius.

Mr Deputy Speaker, Sir, the amendments that are being proposed in the Banking (Amendment) Bill 2013 are that whenever banks propose to transfer the whole or part of their businesses to their respective parent company or to their wholly owned subsidiary or any subsidiary of the parent company, they shall apply to the Bank of Mauritius for approval. In addition, powers are being given to the Bank of Mauritius to direct a bank to restructure its operations.

Before the Central Bank gives its approval to an application from a bank or before it directs a bank to restructure, the Central Bank shall, *inter alia* consider the following -

- any systemic risk that the bank may pose;
- any incidence on the stability of the financial system of Mauritius which the bank may have, and
- the protection of the bank's depositors, its assets and the public.

While submitting its application to the Central Bank, the applicant bank shall provide to the Central Bank a provisional list of its assets and liabilities updated as at the day immediately preceding the date of application. Same applies to a bank which is required by the Bank of Mauritius to restructure.

Mr Deputy Speaker, Sir, once a bank has complied with the requirements of the Central Bank, the latter shall authorise the transfer of the undertaking of the bank. The Central Bank will notify both the bank and the Registrar of Companies who shall issue a Certificate of Transfer of Undertaking to the bank under the Companies Act. The certificate issued shall be for all intent and purposes evidence of the transfer to and vesting in the transferee bank of the transferred undertaking.

The Central Bank shall also give notice in at least three daily newspapers of the transfer of undertaking of the transferor bank.

The transfer of all assets, liabilities, mortgages, privileges, books, records, etc. that form part of the undertaking of the transferor bank shall be transferred to the transferee bank in accordance with the procedure set out in the Third Schedule to the Bill. Similarly any judgement, ruling or order in favour of or against the transferor bank shall be enforceable on the transferee bank as per the Third Schedule.

All employees of the transferor bank shall be entitled to be transferred to the transferee bank on such terms and conditions which are not less favourable than those with the transferor bank. The period of service as well as any pension rights or scheme with the transferor bank shall be transferred to the transferee bank.

The transfer of assets from one entity to another normally attracts registration duty and land transfer tax. However, there is an exemption provision where such transfers are effected between companies forming part of the same group of companies. This exemption provision will be fine-tuned, if required, through relevant regulations.

Mr Deputy Speaker, Sir, before finalising the Bill, my Ministry had consultations with the Bank of Mauritius and the Mauritius Bankers' Association.

Consequential amendments are being brought to the Companies Act, Land (Duties and Taxes) Act, the Registration Duty Act and the Transcription and Mortgages Act. Provision is being made for the Minister to make regulations to provide for any matter necessary or consequential to the implementation of the amendments and the Third Schedule.

The Banking (Amendment) Bill, once enacted, shall come into operation on the date it is published in the Government Gazette.

At Committee Stage, I shall bring an amendment to clarify the provisions relating to the Registration Duty Act.

Mr Deputy Speaker Sir, I now commend the Banking (Amendment) Bill to the House.

**Dr. A. Boolell rose and seconded.**

(2.43 a.m.)

**Mr K. Li Kwong Wing (Second Member for Beau Bassin & Petite Rivière):** Mr Deputy Speaker, Sir, this Bill before the House is meant to provide for banks to restructure of their own will, to provide for the Bank of Mauritius to have power to require a bank to restructure and also to provide for procedures as set out under the Third Schedule for the transfer of undertakings. The reason that could be put for bringing this amendment to the Banking Act is to fill up the regulatory gaps in the present banking legislation since current provisions seem to be inadequate to facilitate bank restructuring as they provide only for the power to merge and consolidate and there is also now, after the global financial crisis, the need to exert greater regulatory oversight and control over bank restructuring.

Mr Deputy Speaker, Sir, what could be the rationale behind these amendments that are being brought at this stage? Fundamentally, it appears that it will serve to preserve the stability of the financial system and forestall systemic risks and prevent or, at least, reduce the probability of bank default and contagion within the banking system and also, to minimise the risk to the taxpayers for financial bailouts of insolvent banks.

Why is financial stability so crucial at this stage for these amendments to be introduced tonight? This is because there are increasing risks of certain bank failures or default in Mauritius in view of the international economic environment and in view of the domestic economic challenges and deteriorating economic indicators and, to say the least, the Government mismanagement and bad governance. If we look at the international environment, the euro zone recession that is taking place whereby growth rate would be negative this year, is going to create challenges to our export sector. Already, growth is slackening at around 3.5% while inflation is rising to an estimated rate of 5.5% according to the Bank of Mauritius while unemployment itself is rising above 8%.

In this context of declining private investment and declining national savings rate with a widening trade deficit, the economy is definitely peering into an abyss with mal-investment and mal-governance all around. All these challenges will have an impact on the Banking Sector, hence, the need to provide for effective Central Bank oversight on potential bank restructuring due to default. If we look at the banking sector in the present days, there is a high bank concentration whereby two big banks control two thirds of

the market in an incestuous relationship where they corner the market and have potentials for conflict of interests due to loans being given to related client groups.

When we look at the MCB and the State Bank of Mauritius, what is the governance that guides the allocation of loans among State enterprises and a few large conglomerates which are also their main shareholders? Looking at the credit risks, we find that there is large exposure, that is, exposure to big conglomerates ranging to 30% of the total bank credit where the large exposure of credit to big conglomerates constitutes, according to the last financial stability report of the Bank of Mauritius, 92% of the total capital base of the banking system. These large conglomerates are steeped in debt and they are considered too big to fail because they think that their group will last forever and, therefore, continue to benefit from bank credit on the basis that their capital should not be opened to outsiders.

This ratio of debt to equity is rising and increasing. In the case of the hotel and textile sectors, the short-term debt also is increasing as a percentage of the total debt and it is clear that most of the large hotel groups, even sugar and textile groups, are now short of working capital and it is no secret to Small and Medium Enterprises and suppliers that they get paid over three to four months. Many of these large conglomerates are even asking for moratorium and technically, therefore, they are in soft default. The buzz word now, in the banking sector is loan restructuring for these large groups. The Bank of Mauritius is even stepping in with special lines of credit and Government is providing stimulus packages and soft loans and bailout funds even from the National Resilience Fund. Commercial Banks these days require high credit risk premium when they come to the rescue of these groups.

As I said, the method to salvage these groups is through debt restructure, that is, loan restructuring rather than requiring them to sell their assets and come with new and fresh capital or opening up their capital to new shareholders. These large conglomerates provide a systemic risk to the banking system.

*(Interruptions)*

The Bill is about bank restructuring - unless you don't understand what bank restructuring is for, you should understand the basis and the rationale for the amendments being brought which is to give wider powers to the Bank of Mauritius to oversee the bank restructuring that is required before the whole banking system collapse in this country because there are Ponzi schemes that are flourishing all around and even creating shadow banks in the financial system.

Mr Deputy Speaker, Sir, it is the risk of these loan defaults that will affect the solvency of banks. Non-performing loans are rising. Although the ratio is claimed to be low to the extent of 3% of the total credit, yet the amount of non-performing loan as a percentage of total private sector credit has risen last

year, by 30% while the ratio of the specific provision of the banks to cover the non-performing loans has fallen from 45% to 40%, hence the risk to the financial system. On top of that, the economy is being fuelled by a property bubble and by a financial bubble. People will note the bubble that burst in Spain driven by the property crash and very recently another bubble burst in Cyprus due to the financial crash owing to the problems in the Euro zone. If we look at the situation in Mauritius, we have supposedly high inflows of FDI, but this Foreign Direct Investment is skewed towards real estate and financial services. On the other hand, both the property development loans and housing loans are suffering alarming problems as in the case of Centrepont which is an eyesore in Trianon and Port Chambly which is put under administration. The Bank of Mauritius has been raising the alarm bell since many years now about the property speculation which is creating a risk to the banking system. The IMF in its article 4 consultation note also raises the same warning note. Therefore, property speculation through hot money from foreign investors is creating a bubble which is a tremendous risk to the banking system in Mauritius. On the other hand, if we look at the household debt, this also is increasing. Just looking at the newspapers we can see that deluge of credit card promotions whereby people are offered all kinds of discounts in all kinds of shops. Household credit also is rising whereby the growth in household credit exceeds the nominal GDP growth. Now with the payment of PRB and the low interest rate environment, the household indebtedness has increased and also the non-performing loan ratio of household debt to personal sector debt has risen to 16%.

Mr Deputy Speaker, Sir, just envisage the situation of Cyprus which was bragging about its resilience as it thought that its economy was going to be shock free and crash free. If we look at the large exposure of the Cyprus banks to real estate speculations and to financial products especially Greek bonds, Cyprus has been hit by the Euro zone storm and, today, it has to sell its natural gas reserves in order to salvage its financial system. The second largest bank in Cyprus had to close down and the depositors lost money and will have to face a haircut of 15%. So, the final losers in this situation are the small savers and the taxpayers.

Mr Deputy Speaker, Sir, we have talked about loan structuring within the banks, but this is not enough. It is bank structuring that is important. But even more important is economic restructuring. This Bill, therefore, is welcome. However, in view of the challenges and the high risks facing the economy, the corporate sector, the household sector and, therefore, the whole banking system; these amendments that are being tabled before the House tonight fall short of the positive regulatory changes that are required to ensure the sustainable health of the banking system and to match the international best practices with regard to reorganising and restructuring of financial institutions. In this context, let me therefore, comment on a few clauses of the amendment.

Firstly, it is important for the public to know in advance what are the criteria, conditions and parameters that will determine the Bank of Mauritius decision to approve a bank restructuring. There is a need of well established parameters in the best interest of depositors and of the public, inasmuch as there is no deposit insurance scheme in place in spite of longstanding promises that have been made by the Government. There is need, therefore, of transparency in the decision process for Bank of Mauritius approval, which should be put on the same lines as when banking licence is granted where the criteria are fully set out. If we look at section 32 (a) (iii), it refers to the factors that the Central Bank has to consider in deciding whether or not to grant its approval to a bank restructuring. However, in the absence of the words ‘and’ or ‘or’ between all these subparagraphs detailing the factors to be considered, it is unclear whether all of the four factors need to be considered or whether it is sufficient to consider only one of the four factors before the bank can give its approval. So, what are the factors that will trigger off the decision of the Bank of Mauritius to require the bank restructure? The public should be made fully aware and be fully informed in advance in order to avoid panic and loss of confidence during a restructuring, but the timeframe for the Bank of Mauritius to approve the restructure is also very important since the amendment is supposed to provide for expediency of decision regarding restructuring. What is missing in the law also is the recourse to an appeal in the case of the approval or non approval by the Central Bank of a bank restructure. Also, Mr Deputy Speaker, Sir, emphasis is laid in the amendments on preserving the rights of the existing shareholders and in preserving the permanence of contractual obligations along with the transfer of undertaking. Section 32A (10)(a) states that nothing shall invalidate any contract or discharge any agreement, while section 32(10)(e) states that nothing in the amendment shall entitle any party to a contract, to modify the terms of the contract. So, the question is: what happens where in a contract between a bank and a third party, it is specifically stated that there can be no transfer? Does this mean then that the whole restructuring exercise is being put at risk and is at stake? Also, would all this not be in contradiction with the definition of liabilities where liabilities are defined to include obligations not lawfully capable of being assigned? So, how do we address such possible problems under these amendments?

Mr Deputy Speaker, Sir, the whole restructure exercise, as allowed under these amendments, is limited to intergroup restructure and is, therefore, limitative in scope. Subsection (1) of paragraph 32A says that the amendment will provide for a situation -

“(...) where a bank proposes to restructure its business in a manner that involves the transfer of the whole or part of its undertaking to -

- (a) its parent;
- (b) to its wholly owned subsidiary; or



(c) a wholly owned subsidiary of its parent,”

It means, therefore, that when the bank comes to the Central Bank or when the Central Bank requires the bank to restructure its business in order to transfer its non-banking business out of its banking business from a holding company to a subsidiary or from a company to its parent, then the restructuring exercise comes under the ambit of the provisions of these amendments. But what happens if the Central Bank would need to call on a weak bank which is having problems and, therefore, there is need to transfer its good assets out of that weak or failing bank to be entrusted to a more important and better managed bank, that is between two different companies?

This can be done because this is done in Cyprus, because the second largest bank in Cyprus is going bankrupt. So, the Government of Cyprus decided to take out all the good assets in the second bank, close the second bank, and keep the good assets and transfer it to another well run bank. So, the question is: whether the present amendments would be able to provide for this situation if it ever arises in Mauritius, because there are several banks in Mauritius which are at risk due to the weak and vulnerable economic situation and the problems facing a lot of their corporate clients in Mauritius.

The question arises is: when the restructure requires transfer of good assets from one bank to another bank and, therefore, not restricted to intergroup transfer, will the amendments cover these requirements?

Fourthly, Mr Speaker, Sir, the amendments make mention that the staff of a transferor bank shall be entitled to be employed by the transferee bank. In view of the fact that the banking system is making enormous profits of Rs17.6 billion this year, it is thought that these amendments will sufficiently protect the employment of banks staff, especially for those that are in a transferor bank being transferred to the transferee bank, and lastly, Mr Speaker, Sir, if we look at section 13, it makes provision for the Minister to ‘make regulations to provide for any matter necessary or consequential to the implementation of this section.’ Mr Speaker, Sir, this concerns the banking sector which is under the control of the Bank of Mauritius. If the hon. Minister is going to make any regulation under this law it would be proper for the Minister to seek advice from the Governor of the Central Bank. Therefore, it is proposed that under section 13, it is added that the Minister “upon consultation with the Governor or upon advice of the Governor of the Central Bank”, may make regulations to provide for any matter necessary to the implementations of this amendment and this is even more important when we consider the strained relations between the Minister of Finance and the Governor of the Central Bank. With this I put an end to my intervention.

Thank you.

(3.06 a.m)

**The Minister of Education and Human Resources (Dr. V. Bunwaree):** M. le président, permettez-moi d'apporter ma contribution à ce projet de loi d'amendement au *Banking Amendment Bill* qui est devant nous tôt ce matin, je dois dire. Mon ami le vice-Premier ministre et ministre des finances a fait une très bonne présentation de ce projet de loi *coming to the point without beating about the bush*. Je pense qu'il a bien fait comprendre ce dont il s'agit et on vient d'entendre l'honorable Li Kwong Wing qui a bien compris le bien-fondé de la loi, je dois dire. Il est d'accord. *He welcomes the Amendment Bill*, mais bien entendu il lui a fallu dire des choses un peu plus profondes pour prouver qu'il travaille au sein de l'Assemblée.

*(Interruptions)*

Je le félicite pour avoir fouillé dans le bien-fondé et puis dans le *rationale* qui souligne ce projet de loi.

M. le président, le but essentiel de ce projet de loi, comme l'a dit, tout à l'heure, mon collègue le vice-Premier ministre, et comme l'a dit aussi l'honorable Li Kwong Wing, c'est de faire provision pour une procédure expéditive afin de permettre une banque de pouvoir se restructurer avec l'approbation bien entendu de la banque centrale et pour cela encore faut-il que la banque centrale, dans notre cas la banque de Maurice, ait le pouvoir de permettre cette restructuration.

Donc, je pense que cela a été dit par l'honorable Li Kwong Wing. Il faut d'abord faire provision pour que cette procédure puisse se faire, cette restructuration, en cas de besoin et, deuxièmement, il faut que la banque de Maurice, la banque centrale, ait le pouvoir de permettre cela. Ce qu'on est en train de dire, M. le président, s'accorde tout à fait avec la politique de la banque centrale, parce que la requête est venue de la banque centrale. La banque centrale surveille sur la banque qui a la responsabilité de régulateur et la banque centrale suit tout ce qui se passe dans le monde et on connaît les problèmes économiques, les problèmes financiers de ces dernières années. La banque centrale et nous-aussi constatons qu'il y a certaine faiblesse au niveau du *Banking Act* qui pourrait avoir des répercussions assez compliquées, assez graves même, sur une banque locale dont la mère est à l'étranger, et si des précautions ne sont pas prises, on pourrait voir la banque s'effondrer à Maurice en même temps que ça s'effondre à l'étranger.

Ayant compris cela, il faudrait qu'on légifère pour pouvoir faire le nécessaire pour empêcher cela. C'est une solution un peu *win-win*, je dois dire parce que la banque locale aussi pourrait avoir des problèmes. Et dans des cas pareils, je ne pense pas que la banque mère va laisser tomber sa filiale. Donc, c'est une affaire gagnante des deux cotés. On a vu combien de banques ont souffert à l'étranger,

continuent à souffrir jusqu'à maintenant. Il ne faudrait pas que quand un problème important arrive et une banque s'effondre à l'étranger, que sa subsidiaire à Maurice, paie les pots cassés, comme on dit. Donc, il faudrait faire cela. Je félicite mon collègue pour être venu au bon moment parce qu'il fallait peut-être venir plus tôt, mais il n'est jamais trop tard pour bien faire. Tout cela bien sur il s'agit au fond de maintenir la stabilité financière du système bancaire, ce qui est aussi important. Nous savons combien notre système à Maurice est fragile.

M. le président, je dois aussi vous dire que ce projet de loi donne le pouvoir à la banque centrale de pouvoir demander à une banque de se restructurer, de restructurer ses opérations ce qui n'est pas le cas présentement. De plus, le Banking Act, tel qu'il est, jusqu'à présent, n'a pas de provision pour permettre à la banque centrale de donner ses instructions à une banque dans le cas où la banque doit opérer un « *merger* » comme on dit ou même se consolider avec une autre banque. Donc, maintenant avec les amendements que nous allons faire passer tôt ce matin, cela va résoudre le problème. On se rend compte, M. le président, que le *scope* même du présent Banking Act est limité. Il n'y a pas de provisions pour permettre à la banque de Maurice, comme je le disais tout à l'heure de donner des instructions pour permettre ce que je viens de mentionner.

I must tell you, Mr Deputy Speaker, Sir, that, in some cases, the process in our current legislation when we want to act is cumbersome and lengthy. In view of the systemic risk that the bank may pose, it is important that, in cases of mergers, the acquisition and restructuring of banks be carried out in a fast and efficient manner. *Il faut agir vite parfois dans certain cas. Si nous voyons la loi comme elle est, il y a beaucoup de procédures and the procedures are very lengthy. Cela pose un problème majeur.*

I was saying, Mr Deputy Speaker, Sir, following the global financial crisis that we are still witnessing, we have witnessed it very strongly in the recent past, many countries, I think it was mentioned by my colleague, the Vice-Prime Minister and Minister of Finance, are encouraging branches of foreign banks to be converted into local subsidiaries. The risk with a branch is that, as we want to point out, when the parent company collapses, the assets of the branches also disappear whereas with a subsidiary, the assets are protected. This is the crux of the matter. This is, in fact, what we are trying to do tonight, to protect the assets. Several countries - I can mention the UK, Australia and New Zealand - have already amended their respective laws on similar lines. Now, Mr Deputy Speaker, Sir, in the amendments that we are proposing in the Banking Amendment Bill that is in front of us here, we are saying that when a bank proposes to transfer its business either whole or part to its parent company or its wholly owned subsidiary, it must apply to the Bank of Mauritius for approval. We are also giving the Bank of Mauritius the power to require the bank to restructure.

Mr Deputy Speaker, Sir, before the Central Bank gives its approval to an application from a bank; before it directs a bank to restructure, the Bank of Mauritius, that is, the Central Bank will have to consider a few important points. First of all, the protection of the banks' depositors, of the banks' assets and of the public also. It is very important to note that the Bank of Mauritius will have to take this into consideration. Also, any risk within the system: it has to consider whether there are any risks in the system, systemic risks as we say, that the bank may pose. The Central Bank also has to consider whether there would be any impact on financial stability, that is, on the stability of the financial system of the country. These are the points that the Central Bank will have to consider when the application comes to it. Of course, once the bank has complied with the requirements, then the Central Bank will authorise the transfer of the undertaking of the bank. What is good to note, Mr Deputy Speaker, Sir, in the proposed amendments nothing prevents a bank from undergoing any restructuring of its business outside the proposed amendments is that nothing prevents that. That is by way of private contract or pursuant to existing provisions of the Companies Act. In the event of any conflict with any enactment regarding mergers, acquisitions and consolidation of banks using this section, the provisions of this section shall prevail. This is what the amendments say. Two good notes, one in the process of transfer of undertakings: - I think it has been mentioned just before me: all employees of the transfer bank shall be entitled to be transferred to the transferee bank on terms and conditions which are not less favourable than those with the transfer of banks. So there is protection of the employees also. Insofar as transfer of assets is concerned, from one entity to another, it normally attracts duties and taxes and if the Central Bank has, itself, proposed the procedure, then, of course, this will have to be taken into consideration. I think my colleague will have a few words on that when he is going to sum up.

Mr Deputy Speaker, Sir, as I was saying in the beginning, we are doing something very important essentially to protect the assets of the branch of a bank which is found abroad. So, I wish to commend my colleague for having come in due time with these amendments. It goes in line with the protection of our banks, therefore, the consumers of the banks, the clients of the banks whoever they may be.

Thank you very much, Mr Deputy Speaker, Sir.

(03.17 a.m.)

**Mr R. Uteem (Second Member for Port Louis South and Port Louis Central):** Mr Deputy Speaker, Sir, we live in very uncertain international financial times. We live at a time where even Triple A banks have collapsed; giant banks like Bear Stearns, Lehman Brothers have collapsed in recent years. Just a few days ago, we saw what happened in Cyprus; how the banking system collapsed; how the Central bank of Cyprus had to intervene; how the second largest bank in Cyprus had to close down. So it

is against this background that a Bill like this is being considered today and is being also supported by this side of the House subject to the various remarks that I have to make on this Bill.

The hon. Minister of Finance mentioned that one of the reasons for passing the Bill is to give effect to the Central Bank's desire that branches of international banks be converted into subsidiaries. As at to date, out of the twenty-one banks duly licensed by the Bank of Mauritius, only five are branches of international banks. I take it that the Central Bank, and the Minister, have taken the views of all those branches before he comes up with this Bill and has taken also on board any of their concerns. One of the direct consequences of converting a branch into a subsidiary is that they will have to comply with the Companies Act. They will need to have an independent Board and they will have to be properly capitalised. At the moment all banks are required to maintain a capital adequacy ratio of 10%. However, branches of a foreign owned bank are exempted from this requirement for the operation conducted outside Mauritius; so if they were lending outside Mauritius the 10% capital adequacy ratio with respect to the weighted risk of loans is not applicable.

Once they convert into subsidiaries, they would have to observe this capital adequacy ratio of 10% even for loans outside Mauritius. So, the subsidiaries will now have to inject more capital in the bank and that is why I hope consultations have been made with, at least, the five branches. I heard the hon. Minister mentioned that he spoke to the representative of the Bankers' Association. I hope that he also spoke to the five branches which are directly concerned with this measure.

Also, on the flip side, we need to ascertain whether, the fact that we are converting branch into subsidiary will have any impact on depositors. It is a fact that there are certain depositors who feel more comfortable putting their money in an international bank which is obviously more capitalised than local subsidiary. So, I do not know if the Bank of Mauritius has carried out any survey, especially with respect to offshore companies with non-Mauritians who put deposit in fixed accounts or deposit in savings accounts of these international banks.

Mr Deputy Speaker, Sir, the powers that are being given to the Central Bank, in respect to restructuring, go beyond the mere converting of branches into subsidiaries.

In fact, under section 32(a), they can ask any bank to structure its business in any manner that involves the transfer of the whole or part of its business. So, even for part of the business as at today, even for existing banks, licensed banks, domestic banks, the Central Bank will now be given the power to cause them to restructure. Obviously, this new found power has to be exercised with caution in a reasonable manner. This is where I share the concern of hon. Li Kwong Wing that we do not have sufficient transparency, we do not have sufficient guidelines. I hope that, by regulations, the

Minister can come forward with more objective criteria, because we need checks and balances. We also need to give the banks recourse, if they are unhappy with the measures taken by the Central Bank. There must be a way that they can appeal to a Court, by way of judicial review or otherwise. At the moment, there does not seem to have this appeal process which you have in other sections of the Banking Act.

Hon. Minister Bunwaree talked about the lack of regulation with respect to mergers and transfers. In fact, that is not correct. We already have a section 32 which has been used in relation to a number of transfers of banks, for example, when Delphis Bank was transferred to First City Bank and the Central Bank has a lot of powers under the existing section 32 in case of merger, in case of acquisition.

In fact, one of the shortcomings of this amendment is that it only concerns section 32(A); it only concerns the situation where there is a transfer to parent and to subsidiaries. I would have preferred that all these provisions relating to transfers of assets, consequences on assets and liabilities be also applicable to any merger, any acquisition under section 32. All these measures, as currently drafted, seem to apply to only restructuring under 32(A). Maybe, subsequently, the hon. Minister can by regulations have rules.

The hon. Vice-Prime Minister and Minister of Finance also mentioned that the other reasons for bringing this amendment was the request from the Central Bank to be able to cause bank to segregate their banking and non-banking assets. In fact, under subsection 5(b) of the Bill, the Central Bank will only give its approval where the transferor bank shall comply with such other regulatory requirements relating to any part of its business under any enactment. The bank must have all other licences. We know today that there are two separate sets of regulations. Banking Financial Services are regulated by the Central Bank; Non-Banking Financial Services are regulated by the Financial Services Commission.

We have just seen in the recent scandals of Whitedot and Sunkai, how there is a lack of cooperation and coordination between these two regulators. We have seen how the Bank of Mauritius put all the blame on the Financial Services Commission, saying that this was an investment scheme to be regulated by the FSC. We read in the press how the Chairman of the FSC said: 'No, no, in fact, that was deposit taking, a disguise form of deposit taking. So, it was a banking service and should have been licensed under the Central Bank.'

I would urge the Vice-Prime Minister to take this opportunity to try to sort out matters between these two regulatory authorities which will be very important, if we are going to segregate banking and non-banking services through this legislation.

So far, we have spoken about the situation where it is the Central Bank which exercises its new found powers under section 32(A). The amendment also enables bank to restructure itself. So, without the Central Bank imposing on it, a bank can itself decide to restructure and come to the Central Bank for

approval. The way it is being done currently before the passing of this Bill is, by way of a conventional restructuring through contractual obligation; the bank decides to transfer its undertaking by way of an out-of-court contractual arrangement. But, in that case, if the bank decides to do this, it will have to seek the consent of various parties: depositors, sureties, people who have given mortgages, third parties and also contractual parties who had a clause in the agreement against assignment of debt and obligation. So, it is a very cumbersome process if a bank today has to go by out-of-court contractual transfer of assets.

The second option available to the bank today is to apply to the Supreme Court for a scheme of arrangement and ask the Supreme Court to sanction the transfer of the undertaking. I am very surprised that the hon. Vice-Prime Minister and Minister of Finance did not touch on this at all while presenting this Bill. I hope that in the summing-up he can enlighten the House about how this Bill is going to affect the current scheme of arrangement which Barclays Bank has entered before the Supreme Court.

As the hon. Vice-Prime Minister and Minister of Finance is aware, around October 2012, Barclays Bank PLC (Mauritius) Branch lodged with the Court a scheme of arrangement asking the Court to sanction the transfer of all of its business, assets and liabilities to Barclays Bank Mauritius Ltd., and any interested persons were invited through a public notice which appeared in the press. So, any interested person wishing to make representations against the approval of the scheme must do so by submitting representation in writing to the Supreme Court by 12 November 2012. I do not know whether anyone had objected to this scheme. I would like the Vice-Prime Minister and Minister of Finance to tell us whether this scheme is still before the Supreme Court of Mauritius, whether anyone objected and what is going on, on this front. I have come across the petition on the website of Barclays Bank.

It seems to me that this law is tailormade for Barclays Bank and I say so because I have seen certain disturbing similarities between the wordings of the petition and the wordings of the Act. I will give you an example of what I am saying so that you can see for yourself. For example, if we take section 32A (10), (a) the consequence of the transfer of assets we see that the wordings are almost identical to clause 10.2.1. For example, under the Bill 'nothing will invalidate or discharge any contract or agreement which had been entered into before the transfer of the undertaking', under the petition it is 'nothing will invalidate or discharge any contract security or other thing'. Under the Bill in (10) (b), it is 'nothing will constitute a breach of, or default under, or require compliance with any notice or consent provision, including express or implied consent for transfer' and under the petition it is 'nothing will constitute a breach of, or default under, or require compliance with any notice or consent provision'. They are almost identical. Moreover, part (d) 'nothing will allow any party to any contract to which the transferor bank is a party, or by which it is bound, to terminate that contract where that party would not otherwise have been able to terminate (...)'. It is the same thing for 10.2. of the Petitioner. It is cut and paste. I do not know

why and I would like to be enlightened by the hon. Vice-Prime Minister as to whether this Bill has been tailor-made for Barclays Bank and, if so, why.

Thank you.

(3.32 a.m.)

**Mr Duval:** Mr Deputy Speaker, Sir, let me thank my colleague, hon. Dr. Bunwaree and hon. Uteem for the very good points that they raised. As for my friend, hon. Li Kwong Wing, he is used to his usual exaggeration; perhaps I should say 'headline grabbing nonsense' that he uses now in this House. But there is a cost to that, Mr Deputy Speaker, Sir. The cost is the reputation of the country. The cost is the advancement of the country. This is why I always ask the hon. Member to be fair in his comments because that is fair but to go all the time and exaggerate and see all the time the black side. Last year he predicted, Mr Deputy Speaker, Sir, 'doomsday for Mauritius' and what happened? We got upgraded by Moody's, one grade up to Baa1 same as South Africa! We had Mrs Christine Lagarde who was here, a fantastic lady, she is a well-known personality. The Head of the highest financial institution in the world, she came to Mauritius and she told everybody here that we are doing a remarkable job. Here, Mr Deputy Speaker, Sir, we had this headline grabbing Member of Parliament, at the expense of the country, all the time coming and trying to bring us down! *Quel regard est-ce qu'il jette sur la performance de son propre parti quand ils étaient au gouvernement ? Quel regard il jette dessus, M. le président ?* Unemployment was 9.6%, when there was no recession on any side in the world! 9.6% unemployment! FDI that they were attracting ...

*(Interruptions)*

He has the cheek to mention about FDI! They were attracting FDI, Mr Deputy Speaker, Sir. What FDI they got in five years, we get every year now! Last year was almost a record in terms of FDI for Mauritius at Rs12.7 billion. What does FDI mean? It does not just mean that people like to invest in a hotel or invest in a bank or in a house; it means that they trust this country because of the democracy, the Government, the macroeconomic indicators which are fantastic in this country. That is why it is an indication of trust and people trust us. This year too, we have seen a few days ago SAPER investing billions of rupees in the shipping industry in Mauritius. Maybe they are a bit jealous of this. That is not a reason...

*(Interruptions)*

...to bring down this country and as long as we are here, Mr Deputy Speaker, Sir, we will not allow people to talk of doomsday everyday just to bring down the morale of our citizens who wake up at 6.00 a.m. every day to go to work and deserve a good living, advancement and prosperity.



*(Interruptions)*

I will speak about Whitedot in a minute, do not worry about it.

As far as this year's growth is concerned, he mentioned himself 3.5% which is positive for the country. I hope we can do that. If we can do more, we will do more. We will do our best for our country, Mr Deputy Speaker, Sir. The banking sector has been remarkably stable in this country. We have had a few hiccups, under their Government. Here too under their Government the MCB/NPF scandal, Rs800 m. were lost under their nose.

*(Interruptions)*

That happened, Mr Deputy Speaker, Sir. It was public money, pensioners' money, the NPF money that was stolen! That happened there and then because financial fraud happens everywhere, in every single country all the time. It is very difficult. It is like crime, like speeding on the road; you cannot have hundred percent. The cost of having hundred percent assurance would be too much for any economy to bear, Mr Deputy Speaker, Sir. I agree that this year we have some issues. I think weather permitting, the hotel in the tourism industry will do well in terms of numbers and we are diversifying into China very well. We have successfully, first time in history, two direct flights going to Shanghai now. Air Mauritius wants to announce, soon I hope, a direct flight to Beijing also. This will revolutionise the tourism sector in Mauritius by bringing into the tourism sector one of the most prosperous nations in the world, the Chinese.

*(Interruptions)*

That is working. The manufacturing ...

*(Interruptions)*

The manufacturing sector, with the diversification to Africa will do well also, Mr Deputy Speaker, Sir. The manufacturing sector in Mauritius is very positive at the moment because there has been a 35% increase in our exports to Africa. Today, Mr Deputy Speaker, Sir, Africa, in terms of exports, represents more for Mauritius than America does, that is, *la percée que nous avons faite* in South Africa. Of course, there is duty protection vis-à-vis the Chinese. Nevertheless, we are taking advantage of what exists, but there is a very positive feeling in the manufacturing sector. The ICT/BPO is doing well. I have just mentioned the large investment coming in the Seafood hub. That is also doing well. For the financial services, we accept we have issues. We are dealing with these issues. The President of India was here recently and it was taken at the very highest level of the State by the Prime Minister and by our

own President and by Members of the Government here. So, Mr Deputy Speaker, Sir, we are not running away from the challenges that exist and that will always exist in an economy like Mauritius.

Article 4 of the IMF is an excellent report. It has not had a big headline. Why? It is because it is an excellent report that the Article 4 IMF team have come up with and we can discuss about that at any time, Mr Deputy Speaker, Sir. Please, let us not score cheap political points at the expense of our country's reputation!

*(Interruptions)*

I make an appeal to this particular hon. Member of the Opposition.

The hon. Member is very reasonable. The points he raised on Barclays Bank were very reasonable and I will answer them happily. But I am tired of always having an Opposition Member who wants to bring down the reputation of the country to the *gutter*, making people think these people are investing in FDI, thinking that banks are about to close, that our property sector is about to crash, that our manufacturing sector is about to throw 56,000 people out of work! It is time that he looks himself in the mirror, Mr Deputy Speaker, Sir. Is it worth a few electoral votes to act like this in your own country, Mr Deputy Speaker, Sir?

*(Interruptions)*

Anyway, Mr Deputy Speaker, Sir, Time Magazine at their own expense ran a conference last week in Mauritius.

*(Interruptions)*

The famous Time Magazine!

*(Interruptions)*

Anyway, *oiseau de malheur* we are used to it.

*(Interruptions)*

Now, we come to the points, Mr Deputy Speaker, Sir.

*(Interruptions)*

I have said what I had to say. I will not go further.

*(Interruptions)*

Mr Deputy Speaker, Sir, I come back to some of the other points that were raised, of course, there are provisions in the law when a bank falters. I am sure everybody knows this because there had been so

many banks that faltered in the past. I was, myself, Special Manager of the Union Bank, and when it faltered, all the banking businesses were transferred to another bank at that time. It happens all the time. There are provisions in the law - I think hon. Uteem mentioned it afterwards. Either you do it individually or you go before the Court. We went before the Court and it was sanctioned by the Court. So, there are provisions. They are saying that there are no provisions in the law to transfer good assets etc. That is completely untrue, Mr Deputy Speaker, Sir.

The hon. Member also mentioned, Mr Deputy Speaker, the regulations that are provided in the law to govern some of the points and to make some of the fine-tuning that may be required. We are talking about businesses, I am an elected Member of Parliament and I am answerable to this House at anytime. I take my responsibility. I am not going to hide behind anyone; I take my responsibility as Minister of Finance, I am answerable to this House and at anytime I will answer for what we are doing, Mr Deputy Speaker, Sir.

Concerning provisions for voluntary transfer of assets, it already exists in the law. What is happening is that we want a speedy transfer. There are already provisions and we are not changing this provision that the bank can go through the normal process of restructuring if it wants. We are not changing this. We are just saying that if it is to happen, it must happen. We cannot go on for years with appeals, etc. In fact, this amendment is a general amendment. It follows from the desire, which we support from the Bank of Mauritius, which has intimated to the banks in Mauritius that, firstly, it wishes banks which are foreign branches to be locally incorporated, which we support, as hon. Dr. Bunwaree said, it is a win-win situation. Firstly, because should there be a problem in an international bank, if it is a branch, and obviously, the branch holds the asset of just one legal person, the whole thing goes. But if it is a subsidiary, there is a firewall, a protection in that the subsidiary is the legal owner of the assets in Mauritius. So, there is that firewall.

On the other hand, we cannot see any international bank operating in Mauritius. Should one of the banks – hopefully it will not - have some sort of financial problem, just cut the golden knot and say bye-bye, because its reputation too is at stake. Mr Deputy Speaker, Sir, it is a win-win situation. We are in this way, so far as the foreign banks are concerned, reinforcing the stability of our financial system. In addition, as hon. Uteem, rightly mentioned, this usually requires additional investment to come in, to meet the various ratios that the Bank of Mauritius has in place. In every side, it is, in fact, a positive nature. Of course, Mr Deputy Speaker, Sir, if we force the banks, they can say no, they can shut up shop and go. It is only because they believe in this country that they will do what is being asked of them. We cannot force them to stay in this country. Look at Barclays Bank. It is investing Rs3.5 billion in order to be able to comply with the requirement. It was a request from the Bank of Mauritius to locally

incorporate, to let Barclays Bank invest; they have Rs3.5 billion last year into its banks in Mauritius because it believes in Mauritius. Otherwise, it will just say: it is too expensive, it is going somewhere else. Some banks had done it in the past. In fact, a few years ago, Barclays Bank wanted virtually to leave Mauritius. The hon. Member should take note of what I am saying. I think Mr De Navacelle was the Managing Director. Barclays Bank was closing up its branches everywhere and was on the point of leaving Mauritius because it was no longer interested. Now, it is different. It is much more money being spent in Mauritius because they believe in the economy and it is important that it should be so. This is one thing concerning the foreign banks which will incorporate locally.

Secondly, of course, we have - quite rightly so, it is a fair point - some banks which are very large. We could just sit back and do nothing, which has been the case up to now. Nobody has yet done it. This is the first time that we are passing legislation to force banks to break their businesses into separate legal entities. These banks have not become large overnight. I say 'always been'. We grew up like this; maybe there was the State Bank before. The SBM and the MCB, controlling at least 60% or more of the banking sector in Mauritius. This is a fact. This is the first time that we come up with legislation to say: let us try and deal with these banks, which are too big to fail. This is what we are doing and this is commendable, Mr Deputy Speaker, Sir.

I think hon. Li Kwong Wing raised a point at page 3 of the Bill, concerning clause 32(a) (3) and I am advised, Mr Deputy Speaker, Sir, that any one of these reasons will be a reason for the Bank of Mauritius to request a restructure. It is just a clarification that the hon. Member wanted to know, whether it was, at least, one or the end was missing. It has to be at least one that has to be met as a reason for the Central Bank to request the bank to restructure.

As far as appeal is concerned - the right of appeal was raised by two hon. Members - there is the right of appeal through judicial review. That is still there.

Mr Deputy Speaker, Sir, I believe the depositors will be as safe, if not, safer. What we are doing today is not to render the banking system less safe. It is to render the banking system safer. So, the depositors - once the message get through - should feel safer with their deposits than previously, Mr Deputy Speaker, Sir.

Mr Deputy Speaker, Sir, there were passing remarks made on the troubles we are having at the moment with unregulated schemes. Let me say, Mr Deputy Speaker, Sir, that nowhere in the law, would anyone provide for fraudulent activities to be regulated. That cannot be. No one will regulate so that no one can steal other people's money. That is not the case. A fraud is a fraud, swindling is swindling and it will always be an illegal activity as far as this Government is concerned. This is not a question of

regulating. However, I also agree that we do need to ensure that there is proper coordination between all the various institutions. That is a key.

In fact, Mr Deputy Speaker, Sir, that was one of the points when the IMF came to review the system here. They wanted better coordination. In fact, tomorrow itself, I will be chairing a session at the Financial Stability Committee where we will, in fact, be looking again at the situation of coordination. I do not want to deal with this in a political way. We can do. But this is an issue that happens everywhere. Every country, Mr Deputy Speaker, Sir, has this problem. We will continue to have these problems because people are gullible, people also want easy money. As long as there is a scheme that works, nobody comes to report it. It is only when things start to go bad. We are totally happy, Mr Deputy Speaker, Sir, that, at least, the system works. It may have taken a bit of time, but the system worked to bring all these perpetrators to justice. We can deal with that at the appropriate time, Mr Deputy Speaker, Sir. We have taken a number of measures since I came in to better regulate the financial services sector in Mauritius. Nominee companies are no longer authorised in Mauritius, either in the offshore sector - that was always the case - and now also in the onshore sector. And we did that recently in the 2013 Budget, Mr Deputy Speaker, Sir.

The Asset Recovery Unit was not only created by my colleague the Attorney General. The budget was increased by 60% this year and we made provision in last year's budget for it to be able to deal directly with all financial institutions with all regulators directly to speed up its action as far as freezing and recovery of assets is concerned. We passed, of course, the Private Pension Bill to better regulate the pension sector and a number of amendments and improvements were made also to the Financial Services Commission.

Now Mr Deputy Speaker, Sir, the last point raised, I think, was concerning the Barclays Bank. It comes at a time when there is a restructure going on, it is good to say that, as I have mentioned, I said again that the restructure of the Barclays Bank is at the request, it was not given a directive it could not at that time, but probably the Governor would have given a directive, at the time, had they had the present law, but following a request by the Governor the Barclays Bank is in the process of restructuring. There have been some legal points raised in so far by the lawyers of certain banks here, of one bank at least, that the process may not be infallible and may therefore give rise to problems in the future and everybody agrees that the best solution is to have a Bill in the House which not only provides for the wider provisions; giving the powers to the Bank of Mauritius, not only for foreign banks, but also for local banks. At the same time, provides a quick and foolproof solution to proceed, Mr Deputy Speaker, Sir, when the banks actually agree to do so, when they enact what the Bank of Mauritius will ask them to do.

Mr Deputy Speaker, Sir, I think this is a good day for the banking sector, I think we've taken, even if you take the criticisms into account, as far as the concentration of the banking sector etc. is concerned, it is a good thing that we have done, it is a long overdue piece of legislation Mr Deputy Speaker, Sir, and I thank all my colleagues for their input. Thank you.

*Question put and agreed to.*

*Bill read a second time and committed.*

### **COMMITTEE STAGE**

*(The Deputy Speaker in the Chair)*

#### **THE BANKING (AMENDMENT) BILL (NO. II OF 2013)**

*Clauses 1 – 6 ordered to stand part of the Bill*

*Clause 7 (Consequential amendments)*

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

**Mr Duval:** Sir, I move to make the following amendments in clause 7(3)-

(a) in paragraph (b), by deleting the proposed new paragraph (e) and replacing it by the following paragraph –

(e) a Certificate of Transfer of Undertaking issued under section 346A of the Companies Act –

(i) in respect of immovable property, at the rate in force at the time of registration in accordance with paragraph J of Part I of the First Schedule;

ii) in respect of motor vehicles and trailers, at the rate in force at the time of registration in accordance with Part VI of the First Schedule;

(iii) in respect of assets other than those specified in subparagraphs (i) and (ii), at the rate in force at the time of registration in accordance with Part VII of the First Schedule.

(b) in paragraph (e), by deleting subparagraph (ii) and replacing it by the following subparagraph –

(ii) in Part VII, by inserting, after item (c), the following new item, the full stop at the end of item (c) being deleted and replaced by a semicolon –

(ca) A Certificate of Undertaking issued under section 346A of the Companies Act,

(c) in paragraph (f), in the second column of the proposed new item, by deleting the words “and liabilities”.

*Amendment agreed to.*

*Clause 7, as amended, ordered to stand part of the Bill.*

*Schedule ordered to stand part of the Bill.*

*The title and the enacting clause were agreed to.*

*The Bill, as amended, was agreed to.*

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

*Third Reading*

*On motion made and seconded, the Banking (Amendment) Bill (No. II of 2013) was read the third time and passed.*

**ADJOURNMENT**

**The Deputy Prime Minister:** Sir, I beg to move that this Assembly do now adjourn to Tuesday 16 April 2013 at 11.30 a.m.

**The Vice-Prime Minister, Minister of Finance & Economic Development (Mr X. L. Duval)** rose and seconded.

**The Deputy Speaker:** The House stands adjourned.

**MATTERS RAISED****FLASH FLOODS - SOREZE – 30.03.13**

**Mr V. Baloomoody (Third Member for GRNW & Port Louis West):** Mr Deputy Speaker, Sir, if I may take a few minutes of the time of the House, at this early morning, because of the urgency of the matter following the flash floods that arose last week.

Mr Deputy Speaker, Sir, there is one area which has been badly affected, but we have not heard about it. It is the Soreze area at the entrance of Port Louis and following the recent floods, the area has been heavily affected. My two colleagues and myself, we had the opportunity to visit the site the next day following the flooding and we have seen how most of the streets have been broken by the contractor who constructed the Ring Road. By so doing, they have also either destroyed or blocked certain drains and as such many inhabitants do not even get access to their house up to today. To assist the Minister and the authorities they have put all the spots on a CD and I lay it on the Table so that the hon. Minister can have a look at it and know exactly the cause of the problem. They have taken the photo before the flooding, during the floods and after the floods and this is quite interesting. Now that *metéo* is announcing a very bad week-end due to the cyclone Imelda, they have asked us to raise the matter urgently so that at least some urgent work can be done within the next few days before the week-end.

Thank you, Sir.

**The Vice Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping (Mr A. Bachoo):**

Mr Deputy Speaker, Sir, to-morrow I'll conduct a site visit myself and today in the afternoon I'll do it and, if need be, I'll give instructions to the contractors to do the needful.



**PONT BOURGEOIS, RUE CAUDAN, RUE CONTI & ALMA JOONAS STREET - FLOODS**

**Mr J.C. Barbier (Second Member for GRNW & Port Louis West):** *Mr Deputy Speaker, Sir, my point will concern the flooding in the regions of Pont Bourgeois, Rue Caudan, Rue Conti and Almadina Street in my Constituency. In fact, Mr Deputy Speaker, Sir, on Saturday 30 March, the flooding day, the inhabitants of these regions did not get problems de la même ampleur que Canal Dayot mais il ont eu à faire face aussi à des problèmes semblables. L'eau est entrée dans certaines maisons, d'environ 60 cm à un mètre cinquante, dépendant de la topographie du terrain ou de la maison construite. Ces maisons qui se situent dans ces rues que je viens de mentionner ont été inondées et la cause selon ce que j'ai pu constater, moi-même, M. le président, c'est que le drain qui longeait auparavant le M1 qui était assez grand et profond où se raccordait le drain de la Rue Caudan qui a été supprimé. Donc l'eau qui arrive de la rue Moka vers la rue Caudan arrive évidemment au niveau de l'autoroute M1 et est refoulée automatiquement à l'intérieur des maisons. La même chose du côté du rond point de Caudan de l'autre côté où auparavant il y avait un drain où l'eau coulait de la montagne des Signaux, passait en dessous du marché de la Butte et récemment encore avec la construction de nouvelles structures au niveau du rond point de Caudan, la encore tout le drain a été supprimé parce qu'à un certain moment il a fallu fouiller davantage le niveau de la terre pour faciliter le passage des camions qui sont d'une hauteur importante. Ceci dit, ce drain qui se situait au niveau du rond-point de Caudan a été tout simplement supprimé à ce niveau, donc ce qui fait que l'eau a été refoulée dans la région de la rue Almadina. Ce qui a causé aussi cette stagnation au niveau du rond point de Caudan avec une accumulation de boue. Donc il n'y a pas que le Canal Dayot mais il y en a d'autres aussi qui méritent toute notre attention. Mais, concernant ces deux derniers, je pense que le problème découle directement de la construction récente qu'il y a eu au niveau du rond-point de Caudan. Donc, je voudrais au nom de ces habitants attirer l'attention du ministre pour qu'il puisse évidemment trouver les solutions appropriées.*

Merci, M. le président.

**The Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping (Mr A. Bachoo):** The technicians have already had a look at the Roundabout Caudan and the drains, also. It was in good condition. We have checked it twice, but actually a consultant - GIBBS, if I am not mistaken, has already been appointed. He is looking into the whole region. I hope that within a few weeks he will come with a report, because in the whole region some works need to be done. I can't take it piecemeal. So, I would request the hon. Member to bear with me and I am following it personally with the consultant.

(4.00 a.m.)

**PORT LOUIS SOUTH & PORT LOUIS CENTRAL – FLOODS - VICTIMS**

**Mr R. Uteem (Second Member for Port Louis South & Port Louis Central):** Mr Deputy Speaker, Sir, I will raise an issue which concerns the Minister of Social Security, National Solidarity and Reform Institutions as well as the Minister for Social Integration and Economic Empowerment. Again, it is in relation to the recent floods which affected my Constituency, especially in the region of Tranquebar, Camp Manna, Poudrière Street and Allée Mangué Street. There has been and there is a total chaos as far as distribution of aids is concerned in those regions. The Citizens Advice Bureau is giving food and assistance, but not everyone whose houses have been affected is on the recipient list. All of them have gone to the Police and have a file Police complaint and have received paper attesting that their houses have been affected by the flooding and yet, they are not getting any support. May I ask the hon. Ministers to look into the matter and make a survey so that everybody can get a fair share of compensation!

**The Minister of Social Security, National Solidarity and Reform Institutions (Mrs S. Bappoo):** Mr Deputy Speaker, Sir, as far as the Ministry of Social Security, National Solidarity and Reform Institutions is concerned, requests for the flood allowance have been dealt in all these regions where there have been torrential rains and if there is any loss of their personal belongings, etc., then this have to be reported to the Police in the vicinity and these reports will be channelled to the specific authority, whether it is Ministry of Social Integration, or the Prime Minister's Office for further assistance if need be.

**The Minister of Social Integration and Economic Empowerment (Mr S. Dayal):** Mr Deputy Speaker, Sir, I have taken note of what the hon. Member has just said and let me assure the House that case workers of the Ministry of Social Integration and Economic Empowerment, that is, of the National Empowerment Foundation, have made, what we call, the needs assessment and the needful will be done.

**The Deputy Speaker:** Mrs Labelle!

(4.03 a.m.)

**Mrs F. Labelle (Third Member for Vacoas & Floreal):** Thank you. The Minister concerned has just left, I would prefer to take the issue another time.

(4.03 a.m.)

**CANALS & DRAINS - GROUPE ACTIF DE CIRCONSTANCE - PETITION**

**Mrs L. D. Dookun-Luchoomun (Second Member for Quartier Militaire & Moka):** May I draw the attention of the hon. Minister of Public Infrastructure, National Development Unit, Land

Transport and Shipping that in March 2011, *Le Groupe Actif de Circonstance* had made a petition to his Ministry requesting that urgent action be taken regarding canals and drains which have been blocked by the Savannah Sugar Estates and in response to a question addressed to him at that time, the hon. Minister answered that necessary actions were being taken and consideration was being given to that request. Nothing was done. May I draw the attention of the hon. Minister that following the heavy rainfall on 30 March, the same region has been very badly hit by the rain and I will be tabling the snaps taken in the region following the heavy rains on the 30.3.13.

Thank you.

**The Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping (Mr A. Bachoo):** Mr Deputy Speaker, Sir, in fact, around 11.00 a.m., there is a site visit which the hon. Minister Dayal is conducting together with the technicians of my Ministry on that issue.

(4.04 a.m.)

#### **AGALEGA – MINISTER OF LOCAL GOVERNMENT - STATEMENT**

**Mr A. Ameer Meea (First Member for Port Louis Maritime & Port Louis East):** Mr Deputy Speaker, Sir, this early morning I am raising an issue concerning the Ministry of Local Government and Outer Islands and allow me to inform you that I have already sought guidance from Mr Speaker and I have got his approval to raise this matter here at Adjournment Time. It is in relation to PQ No. B/20 that I had put on 26 March 2013 I will quote from Hansard. I asked the hon. Minister -

« En relation avec la visite du ministre Aimée à Agaléga, est-ce que le ministre serait d'accord que le discours qu'il a fait à Agaléga ne cadrerait pas du tout avec la raison officielle de sa visite à Agaléga et surtout l'attaque injustifiée qu'il a faite contre l'Eglise Catholique ? »

The reply that I got from the hon. Minister Aimée is -

« M. le président, de nos jours, il est trop facile d'interpréter ce qu'on voit dans les journaux pour venir même amener cela, ici, sans justification. Je demande à l'honorable membre de voir qui a enregistré ce que j'ai dit à Agaléga et il n'a qu'à produire l'enregistrement ici. A ce moment-là, je répondrai de mon maldonne ou du problème qu'il y a eu. Si vous avez l'enregistrement amenez-le ici et produisez-le à l'Assemblée Nationale. »

Mr Deputy Speaker, Sir, today, I am tabling a copy of the recording of what hon. Aimée stated in his speech that he had in Agaléga. It is not only an audio, but a video. We have the *son et l'image* and,

believe me, we cannot miss him. Allow me to conclude to just quote a few lines of what had been said in the CD.

**The Deputy Speaker:** Hon. Member, you have made your point. You can just hand over the CD. Thank you very much. Next question, Hon. Lesjongard!

(4.06 a.m.)

#### **CONSTITUENCY NO. 4 – TWELVE-YEAR OLD GIRL - DEATH**

**Mr G. Lesjongard (Second Member for Port Louis North & Montagne Longue):** Thank you, Mr Deputy Speaker, Sir. The issue which I wanted to raise is of utmost importance and concern the death of a twelve-year old girl in my Constituency but, unfortunately, the Minister responsible, the Deputy Prime Minister of this country, is not present. I am not going to raise this matter today, but we will find ways through other channels to raise this issue, Mr Deputy Speaker, Sir.

(4.07 a.m.)

#### **CUREPIPE, HUBERT & MAHEBOURG – BUS SERVICE**

**Mr M. Seeruttun (Second Member for Vieux Grand Port & Rose Belle):** M. le président, Je voudrais m'adresser au ministre responsable de la NTA. C'est la troisième fois que je me sens dans l'obligation de venir avec ce sujet. Cela concerne le *public transport* sur les routes 87 et 11, c'est-à-dire, Curepipe, St. Hubert et Mahebourg. C'est la troisième fois que je soulève cette question et le problème reste toujours entier. Donc, je fais encore une fois un appel au ministre à ce qu'on règle ce problème une fois pour toutes. Ce n'est pas possible que les habitants souffrent de ce problème-là. Il n'y a pas de transport le matin ni dans l'après midi et cela perdure tout ce temps-là. Donc, je fais un appel pour qu'une fois pour toutes on règle ce problème de transport et que les gens ne souffrent plus de ce problème.

Merci.

**The Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping (Mr A. Bachoo):** Mr Deputy Speaker, Sir, I had intervened on many occasions with the individual bus owners. If I am not mistaken, this is a route which is being utilised by the individual bus owners. I have requested them many times. We have taken actions also against them. Unfortunately, this is an uneconomical route and I cannot put up additional buses on that line. That is my biggest problem. I will look into the matter over again and this matter was brought to my attention by hon. Dr. Boolell also.

(4.08 a.m.)

### LOWER & UPPER CHOISY - WATER SUPPLY

**Mrs J. Radegonde-Haines (Fourth Member for Savanne & Black River):** I would like to raise a matter in my Constituency No. 14 concerning the Deputy Prime Minister who has just left. I am sure message will be conveyed to him.

Mr Deputy Speaker, Sir, there is an acute and persistent water shortage in the region of Lower and Upper Choisy affecting at least 100 families living there. I have raised this issue twice in this House to the Deputy Prime Minister and remedial measures have not yet been taken. I am appealing for the third time to the Deputy Prime Minister to put an end to the suffering of these families by providing them with adequate water supply for their domestic purpose. Please, see to it that the proposed reservoir earmarked for Rs8 m. being constructed as a matter of high priority.

Thank you.

**The Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping (Mr A. Bachoo):** I have taken note, Mr Deputy Speaker, Sir.

(4.09 a.m.)

### TREFLES, ROSE HILL – FOOTBALL GROUND

**Mrs L. Ribot (Third Member for Stanley & Rose Hill):** M. le président, j'aimerais adresser une requête au ministre des infrastructures publiques. Ma requête concerne le terrain de foot de Trèfles. M. le président, les travaux, ou tout au moins semblant des travaux, avaient commencé quelques semaines avant les élections municipales et se sont arrêtés quelques jours après les élections municipales, le temps de berner l'électorat d'espoir.

A présent, ce terrain de foot a été laissé dans un tel état que les jeunes ne peuvent y jouer au foot. Les trous qui ont été fouillés, pour soi-disant y mettre des poteaux électriques, ont été laissés tels quels. La terre et les pierres, enlevées pour faire ces fameux trous, ont été laissées en amoncellement. Ce terrain qui est dans l'obscurité totale, est devenu un repère pour des voleurs et des drogués.

Je demanderai à l'honorable ministre des Infrastructures Publiques de bien vouloir faire le nécessaire pour que les travaux sur ce terrain soient repris et terminés dans les plus brefs délais.

Merci.

(4.10 a.m.)

**The Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping (Mr A. Bachoo):** Mr Deputy Speaker, Sir, in fact, the cleaning work

was done and the contractor was supposed to start the work. Unfortunately, the cost was too much on the high side, it had to be revised. That is the reason. This time, we have decided that instead of going through tender procedures - we have preferred under the rate system - to give it to the district contractor. Unfortunately, even the district contractor who is working in those regions, Nos. 19 and 20, is not performing well. That is our biggest problem; so, I will look into the matter.

*At 4.21 a.m. the Assembly was, on its rising, adjourned to Tuesday 16 April 2013 at 11.30 a.m.*

**WRITTEN ANSWERS TO QUESTIONS**

**LAUREATE SCHEME – SCHOLARSHIP - QUANTUM**

(No. B/87) Mr K. Ramano (Second Member for Belle Rose & Quatre Bornes) asked the Minister of Education and Human Resources whether, in regard to the new Laureate Scheme, he will state

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- (a) the reasons why the quantum of the scholarship for those ranked second has been reduced;
- (b) if a study has been carried out prior to fixing the ceiling of sponsorship at Rs300,000 for study cost and air tickets for studies abroad, and
- (c) the eligibility criteria for the fully-funded post graduate scholarships.

**Reply:** The following scholarships are being awarded under the New Scholarship Scheme as from this year to the 2012 HSC cohort of students -

- (i) 2 SSR National Scholarships awarded to 1 Boy and 1 Girl ranked first respectively on the Science Side;
- (ii) 16 State of Mauritius Scholarships to 8 Boys and 8 Girls ranked at the top of the HSC Exam List in the 4 different streams respectively, and
- (iii) 50 Additional scholarships of which -
  - (a) 26 are awarded on the sole basis of merit to students ranked after the State Of Mauritius Laureates, and
  - (b) 24 awarded on the combined basis of merit and social criteria.

The relevant regulations which came into operation on 31 January, 2013 have been gazetted (GN Notice 24 of 2013). The public has been notified of the changes in a press communiqué issued by my Ministry on 31 January, 2013.

The benefits in respect of the 2 SSR National Scholarships and the 16 State of Mauritius Scholarships have remained the same. Additionally, the beneficiaries of these 2 categories scholarships now have the option to study either locally or abroad. However, only those who choose to study locally and who would not have opted for studies in medicine or medicine-related fields will be eligible to a fully-funded post-graduate scholarship.

With regard to part (a), just viewing the quantum of allowance for the 50 additional scholarships as being reduced would be too restrictive and blinkered.

There is need to understand the whole philosophy and rationale underpinning the Scholarship Review. In the first place, this has been done for the sake of widening opportunities for deserving candidates to pursue tertiary level studies.

In the second place, given that the equity issue has always been high on the Government agenda, we have now provided new opportunities to those meritorious students coming from the lowest income families who otherwise would probably never have made it to the university. Deprivation cannot be seen fatalistically as a heritage. Deserving candidates should be empowered to break the cycle of poverty.

Thirdly, it is the stated objective of this Government to make of Mauritius a Regional Education Hub, one in which the Universities, both Public and Private, can be seen as poles of attraction for the best brains both from within the country and from overseas. We therefore want to encourage more of our scholarship winners to study locally and build up the reservoir of intelligence and talent and promote knowledge generation.

Regarding part (b), when the new scheme was being worked out, the tertiary education landscape in different parts of the world was scanned revealing a wide range in costs of higher education worldwide. Experience has also demonstrated that, given the high costs of fees and living in some expensive education destinations, even the quantum of Rs590,000 provided previously to additional scholars was insufficient for studies. A topping-up was called for. In fact, there had also been a few cases where students had either refused to avail themselves of the additional scholarship to study abroad or opted for higher studies locally.

The new scheme that we have put in place with the new sponsorship of Rs300,000 annually for up to four years is fairer in that it benefits more students, and provides an unprecedented opportunity for them to diversify their destinations of study in other emerging education hubs, such as Malaysia, South Africa or France. They also now have the “winning” option of studying locally and being eligible for a fully-funded post-graduate scholarship of 1 year abroad or not exceeding two years locally.

With regard to part (c), the eligibility criteria are the following -

- (i) A scholarship winner must opt to study for a first degree in a local and approved Tertiary Education Institution. However, the course of study opted for should not lead to a medical or medicine-related degree;
- (ii) Immediately, after successful completion of the first degree, the awardee should work for two years in a Government Ministry or Department;
- (iii) After completion of that 2-year period, she/he must provide evidence of having secured a seat for post-graduate studies in a University, and



- (iv) Should the scholar opt to study overseas, all costs will be borne by Government for a maximum period of one year. Should the choice be to study locally, the scholarship will be tenable for a period not exceeding two years

### **RODRIGUAN STUDENTS – CSR – EDUCATIONAL TOURS**

**(No. B/88) Mr J. F. François (Third Member for Rodrigues)** asked the Vice-Prime Minister, Minister of Finance and Economic Development whether, in regard to the proposed amendments to be brought to the Corporate Social Responsibility guidelines, he will state where matters stand, indicating if consideration will be given for the inclusion therein of the financing of educational tours for the students of Rodrigues preparing for the Certificate of Primary Education Examinations.

**Reply:** CSR is governed by guidelines which are issued by my Ministry. These guidelines are regularly updated after consultations with stakeholders.

Presently, an Inter-ministerial committee is examining, under my chairmanship, other possible amendments that could be made to the existing guidelines.

This committee, in consultation with the Minister of Education and Human Resources, will look into the possibility of including educational tours for Rodriguan students preparing for the CPE Examinations.

### **MV MAURITIUS PRIDE - REPLACEMENT**

**(No. B/89) Mr J. F. François (Third Member for Rodrigues)** asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to the proposed replacement of the MV Mauritius Pride, he will state where matters stand.

**Reply:** As a matter of fact, the MS Mauritius Pride is now over 20 years old. Thus, the cost of maintenance and repairs is relatively on the high side. In order to have a deeper insight into further seaworthiness of this vessel, my Ministry has embarked on an exercise to have a full fledged feasibility study conducted.

For this purpose, a comprehensive exercise has been undertaken involving an Expression of Interest and Request for Proposal for a full-fledged feasibility study.

Procedures have been completed leading to the consulting firm “Strategic Networking Partners and Consulting in association with the Maritime Group (International) Ltd” having been awarded the consultancy services contract in December 2012.

The Consultant has already mobilised and an Interim Report will be submitted by end of April this year while the final report is expected in August 2013.

### **PENALTY POINTS DRIVING LICENCE COUNTERPART - OFFENCES**

**(No. B/90) Dr R. Sorefan (Fourth Member for La Caverne & Phoenix)** asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to the Penalty Points Driving Licence Counterpart, he will state the reasons for the difference between the list of offences stated therein and the one appearing in the Schedule to the Road Traffic Amendment Act 2012.

**Reply:** The list of offences referred to by the hon. Member is provided in the pamphlet distributed along with the Driving Licence Counterpart. It includes two offences that do not appear in the Schedule to the Road Traffic (Amendment) Act 2012. These offences relate to the -

- (i) use of a motor vehicle as a bus, contract bus, taxi or contract car without a Public Service Licence, and
- (ii) failure to provide a specimen of breath for a breath test.

The first offence was being contemplated with a view to discouraging illegal operation in the public transport sector. However, following consultations held it has been decided not to include this as an offence carrying penalty points.

The second offence is being included following a judgement by the Supreme Court. Thus, the penalty for refusal by a person to submit himself to a breath test under section 123 G of the Road Traffic Act is being stiffened by attributing 8 to 10 points to the offender for that offence.

At present, the refusal offence carries lesser penalty than the drink driving offence. Including this offence in the Penalty Point System will act as a further deterrent against drink driving.

### **BROWN SEQUARD HOSPITAL - INPATIENTS**

**(No. B/91) Dr. S. Boolell (Second Member for Curepipe & Midlands)** asked the Minister of Health and Quality of Life whether, in regard to the resident inpatients of the Brown Sequard Hospital, he will state the number thereof who are –

- (a) on active psychiatric treatment, and
- (b) long stay and who do not require internment and may benefit from outpatient care.

*(Withdrawn)*

### **EMERGENCY REHABILITATION PROGRAMME - PROJECTS**

**(No. B/92) A. K. Gungah (First Member for Grand'Baie & Poudre D'or)** asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to the Emergency Rehabilitation Programme, he will state the –

- (a) amount of money
  - (i) budgeted therefor, and
  - (ii) disbursed as at to date.
- (b) works undertaken, indicating in each case, the
  - (i) location thereof, and
  - (ii) scope of works thereof, and
- (c) projects earmarked thereunder.

**Reply:** With regard to part (a) (i) of the question an amount of Rs500 m. has been earmarked for the implementation of emergency projects under the Emergency Rehabilitation Programme further to the flash flood the country witnessed on 13 February 2013.

With regard to part (a) (ii), taking into account the progress achieved in respect of the amount of work completed, payment will be effected soon and the information sought is being compiled and will be deposited in the Library of the National Assembly.

I am tabling a list of the emergency projects underway, specifying their localities. Details of the scope of works are of technical nature and are bulky. I am forwarding the list to be tabled giving information on the nature of the projects and works undertaken. I wish to point out that apart from these emergency projects, there are approximately hundreds of other projects which are ongoing in different parts of the country.

With regard to part (c), I would like to point out that in view of serious problem of flooding, Government agreed to urgent implementation of these projects under the Emergency Rehabilitation

Programme and works have started on most of the projects. In view of the complexity of the flooding problems in specific areas such as Bois Rouge, Cottage, Piton, Mapou, Fond du Sac, investigations and studies are underway to come up with appropriate solutions to resolve the problem of flooding.

Following heavy rainfall on Saturday 30 March 2013, giving rise to flooding throughout Port Louis, I would like to inform the House that soon after the flooding, after chairing an urgent meeting with stakeholders, clearing has started the very next day with the collaboration of the Ministry of Environment and Sustainable Development, Ministry of Local Government, Municipal Council of Port Louis, and the Road Development Authority. Cleaning and reinstatement works have almost been completed.

Works orders are being issued for enlargement, widening of drains and upgrading of bridges where necessary.

#### **MOTORWAY – MAHEBOURG-NORTH - LANDSCAPING WORKS**

**(No. B/93) Mr S. Soodhun (Second Member for La Caverne & Phoenix)** asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to the motorway starting from Mahebourg to the North, he will state if any contract has been allocated for landscaping works to be carried out along the sides thereof.

*(Withdrawn)*

#### **TOURISM AUTHORITY - BOARDS FOR POSTERS**

**(No. B/94) Mr S. Soodhun (Second Member for La Caverne & Phoenix)** asked the Minister of Tourism and Leisure whether, in regard to the Boards for posters, he will, for the benefit of the House, obtain from the Tourism Authority, information as to if it had put up temporary ones in December 2012 and if so, the reasons therefor.

*(Withdrawn)*

#### **ÉCOLE DE MÉDECINE LOUIS PASTEUR– STUDENTS - REPRESENTATIONS**

**(No. B/95) Mrs L. D. Dookun-Luchoomun (Second Member for Quartier Militaire & Moka)** asked the Minister of Tertiary Education, Science, Research and Technology whether he will state if he has recently received representations from students of the Louis Pasteur Medical College and, if so, give details thereof, indicating the outcome thereof.

**Reply:** I am informed that in October 2012, representations were made to the Tertiary Education Commission and my Ministry by two students of medicine of *Ecole de Médecine Louis Pasteur* who had not been allowed to present their thesis for the award of the *Diplôme de Médecine Générale* by the *Université de Lille 2*.

In view of the difficulties experienced by the students, my Ministry and the Tertiary Education Commission both tried to contact *Université de Lille 2* as from November 2012.

With the intervention of my Ministry, the Mauritius Embassy in Paris and the French Ambassador in Mauritius and my colleague the Minister of Foreign Affairs, Regional Integration and International Trade, the *Université de Lille 2* delegated its Vice President, Prof. Patrick Pelayo to Mauritius from 07 to 10 February 2013.

Prof. Pelayo had consultations with the Minister of Foreign Affairs, myself, the Tertiary Education Commission, the University of Mauritius, Prof. Baligadoo and the students and their parents. For those students who are currently at *Lille*, the University has agreed to allow them to complete the *2ème Cycle*. The University will advise the students to take the “*Concours*” known as *première année commune aux études des santé* (PACES) to enable them to complete the *3ème Cycle* in France and obtain their final degree.

For the second group of students enrolled by *l’Ecole de Médecine Louis Pasteur* in 2012, after the expiry of its agreement with *Université de Lille 2*, they have been advised by Prof. Pelayo to take the “*Concours*” in Reunion Island to continue their medical studies. My Ministry has requested TEC to take legal steps to ensure that these students are reimbursed by *L’Ecole de Médecine Louis Pasteur*.

The third group concerns five students who have completed their *2ème Cycle* at *Université de Paris VI* and their internship in our hospitals. An appropriate mechanism for the award of the final degree of medicine to them is being examined by my Ministry, the Tertiary Education Commission, the University of Mauritius, the Open University and DY Patil Medical College.

The House may wish to note that the registration of *Ecole de Médecine Louis Pasteur* has expired in February 2013 and the aggrieved students have also made formal complaints to the Police, which is enquiring into the matter.

#### **INCOME TAX – EXEMPTION - EDUCATIONAL PURPOSES**

**(No. B/96) Mrs L. D. Dookun-Luchoomun (Second Member for Quartier Militaire & Moka)** asked the Vice-Prime Minister, Minister of Finance and Economic Development whether, in regard to the

tax deduction for educational purposes, he will state if he has received representations from the income taxpayers whose children/wards study at the University of Mauritius and, if so, give details thereof and indicate the outcome thereof.

**Reply:** I am informed by the Mauritius Revenue Authority that a number of taxpayers whose children are pursuing studies at the University of Mauritius have enquired with the Authority as to whether they are eligible for an additional exemption for income tax purposes.

As the law stands, as from the income year 2011, a taxpayer can claim an additional exemption of

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- (a) Rs80,000 in respect of a dependent child following a course in Mauritius at an institution recognized by the Tertiary Education Commission, or
- (b) Rs125,000 if the dependent child is following a course overseas at a recognised institution.

Taxpayers earning more than Rs2 m. per annum are not eligible. Furthermore, the additional exemption is limited to 3 dependent children in any given year and for each eligible child for not more than 3 consecutive years.

Another key eligibility criterion is that the annual tuition fees payable to a university, excluding administration and student union fees, should be at least Rs44,500. This would mean that a dependent child who is pursuing a course at a public university may not qualify, depending on the current level of tuition fees.

The rationale is that if the level of tuition fees charged to the students is below the threshold this would mean that Government is already providing substantial subsidies to those students through grants to the Universities. Providing the additional income tax relief in such a case will tantamount to providing double benefits to those students.

#### **POINTE AUX SABLES COASTAL ROAD - WIDENING**

**(No. B/97) Mr J. C. Barbier (Second Member for GRNW & Port Louis West)** asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to the project for the widening of the Pointe aux Sables Coastal Road, he will state where matters stands.

**Reply:** I am informed that an in-house study, including the design and topographical survey with respect to the upgrading of the Pointe aux Sables road from its junction with Albion road at Petite Rivière

towards Petit Verger over a length of 3km has been completed by the Road Development Authority. Land acquisition procedures have been initiated.

### **POINTE AUX SABLES - SEWERAGE**

**(No. B/98) Mr J. C. Barbier (Second Member for GRNW & Port Louis West)** asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to Pointe aux Sables and the vicinity thereof, he will, for the benefit of the House, obtain from the Waste Water Management Authority, information as to if any sewerage project is being considered thereat, and if so, give details thereof.

**Reply:** Following complaints registered at the Wastewater Management Authority with regard to defective on-site wastewater disposal systems in the regions of Pointe aux Sables, Petit Verger and Terrasson, my Ministry has requested the WMA to carry out a feasibility study for the implementation of a full scale sewerage project in that area. The feasibility study, which is being carried out in-house by the WMA as from March 2013, is expected to be completed by the end of August 2013.

On completion of the feasibility study, my Ministry will submit the project to the Project Plan Committee (PPC) for approval and inclusion in the Public Sector Investment Programme (PSIP).

### **PETROLEUM HUB PROJECT - IMPLEMENTATION**

**(No. B/99) Mr P. Jugnauth (First Member for Quartier Militaire & Moka)** asked the Minister of Industry, Commerce and Consumer Protection whether, in regard to the Petroleum Hub Project, he will state where matters stand as to the implementation thereof.

**Reply:** In my reply to Parliamentary Question B/731 of December 2012, I informed the House that Government agreed to the Board of Investment being entrusted with the responsibility of securing and providing consultancy services with a view to identifying and selecting promoters to design, construct, finance and operate a petroleum terminal with the necessary jetty facilities.

Since Government is also currently considering the implementation of new energy projects which will cater for the growing needs of our citizens, there is the possibility to regroup the technical, legal, financial and economic competencies required for the consultancy services for the petroleum hub project with that of the services required for the energy projects. The opportunity was seized for storage of coal and of petroleum products to be bundled into one project.

I am informed that the Ministry of Finance and Economic Development launched a tender on 17 December 2012 for the services of a Transaction Advisor with proven experience to assess the technical, financial and economic viability of the proposed coal storage and petroleum hub projects. The Transaction Advisor would also assist in selecting a promoter for the project.

I am further informed that a Request For Proposal has been sent to a selected list of six potential bidders, including advisory and technical engineering firms.

I wish to inform the House that during my meeting with hon. Anand Sharma, Minister of Industry, Commerce and Textiles of the Republic of India, in Port-Louis in January 2013, the latter expressed the wish of the Indian Government to participate in the development of the petroleum industry in Mauritius.

Subsequently, in February 2013, I met with Dr. the hon. M.V. Moily, Minister of Petroleum and Natural Gas, of the Republic of India, who reiterated the above mentioned interest and we agreed that there was an immediate need for Mauritius to increase its storage capacity of petroleum products both to ensure security of supply to meet domestic requirements through strategic stocks and to capitalise on new opportunities in demand for bunker fuel as well as to address growing demand in the regional markets.

Indeed, maritime traffic is growing steadily in the Indian Ocean as a result of increasing trade between the emerging economies of Asia and Africa with South America. A growing share of this traffic is being driven closer to Mauritius by the expansion of the piracy activities in the area. Thus, the demand for bunker fuel is increasing in the region and is estimated to be around one million metric tons. Mauritius has a share of some 30% only, but is well positioned to expand.

In view of the above, Government has agreed to the setting up of a Joint Working Group to give shape to the project and to come up with an implementation plan. The proposed Terms of Reference for the Joint Working Group would be to –

- (a) analyse the various options that can be considered for the financing and implementation of the project and make recommendations accordingly;
- (b) define the capital and operational structure of a Special Purpose Vehicle, with Government as a major shareholder for implementing the project, and
- (c) prepare a complete business plan including operational plan, investment plan, organisational plan and an initial 10 year cash flow projection.

My Ministry will consult the Indian Side to finalise the composition of the Joint Working Group and to fix schedule of meetings shortly.



**ROAD DEVELOPMENT AUTHORITY - HEAD OFFICE - LEASE**

(No. B/100) Mr M. Seeruttun (Second Member for Vieux Grand Port & Rose Belle) asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to the project for the housing of the Head Office of the Road Development Authority, he will, for the benefit of the House, obtain from the Authority, information as to the –

- (a) date of launching of the tender therefor;
- (b) regions earmarked for eligibility;
- (c) specifications thereof;
- (d) number of bids received, indicating the name of the successful bidder;
- (e) duration of the lease, and
- (f) rental value per square metre thereof.

**Reply:** As regards part (a) of the question, I am informed that the Road Development Authority invited quotations for renting of office space through Press Notices in two dailies on Tuesday 5 and Wednesday 6 June 2012. The notice was also posted on the Public Procurement Portal.

As regards part (b), the region earmarked for eligibility was in the region of Ebène.

As regards part (c), the main specifications were -

- space to be approximately 2,500 – 3,000 square metres (25,000 – 30,000 square feet);
- the location of the building shall be in the region of Ebène;
- the building should not be located in a remote area and should be easily accessible by public transport;
- the offices shall be accommodated in a single building/premises, and
- parking space to accommodate at least 30 vehicles.

As regards part (d), three (3) bids were received. The successful bidder was National Real Estate Ltd.

Concerning part (e), the duration of the lease is three (3) years renewable on terms and conditions to be agreed upon by both parties.

As regards part (f), the rental value is Rs272.23 per square metre.

**MAURITIUS TOURISM PROMOTION AUTHORITY - CHAIRPERSON - TERMINATION OF CONTRACT**

(No. B/101) Mr K. Ramano (Second Member for Belle Rose & Quatre Bornes) asked the Minister of Tourism and Leisure whether, in regard to Mr R. D., he will, for the benefit of the House, obtain from the Mauritius Tourism Promotion Authority, information as to -

- (a) the reasons for the termination of his appointment as the Chairperson thereof, and
- (b) during his term of office, the -
  - (i) number of overseas missions he has undertaken, and
  - (ii) total amount of money paid out to him, as salary, *per diem* and gratifications.

*(Withdrawn)*

**FIRE SERVICES - RAINFALLS - REQUESTS**

(No. B/102) Mr M. Seeruttun (Second Member for Vieux Grand Port & Rose Belle) asked the Minister of Local Government and Outer Islands whether, in regard to the heavy rainfalls during the month of February 2013, he will, for the benefit of the House, obtain from the Government Fire Services, information as to the number of requests for intervention received, indicating the -

- (a) number thereof effected;
- (b) nature thereof, and
- (c) if the Fire Services was fully equipped therefor.

**Reply:** The Fire Services Department was called to provide assistance to people in distress situations throughout the country as a result of the heavy rainfall on 13 February 2013. Immediately after the issue of the first "Torrential Rainfall" bulletin by the Meteorological Services at 06.00 hours in the morning of 13 February 2013, the Fire Services Department activated its Cyclone and Other Natural Disasters Scheme Standard Operational Plan.

Subsequently, on the same day, the Fire Services Department received over 1000 calls for assistance associated with torrential rainfall. These calls were filtered and prioritised. In most of the cases, there was no immediate danger to life, but overflow of large volumes of water from natural water courses and blocked drains running into yards and on roads thus causing serious hardship to inhabitants of the affected regions.

I am informed that the Fire Services Department carried out 408 interventions island wide and effected pumping of water from 137 houses.

As regards part (c) of the question, it is to be noted that the Fire Services Department is fully equipped in terms of manpower and equipment for such operations.

I wish to seize this opportunity to express my deep appreciation of the tremendous efforts put in by officers of the Fire Services Department to provide assistance for pumping of water in the affected regions of the City following the torrential rain of 30 March 2013.

#### **WHITEDOT INTERNATIONAL CONSULTANCY LTD. - ALLEGED SWINDLING CASE**

**(No. B/103) Mr P. Jhugroo (First Member for Mahebourg & Plaine Magnien)** asked the Vice-Prime Minister, Minister of Finance and Economic Development whether, in regard to the recent alleged case of swindling to the tune of Rs700 millions and involving the Whitedot International Consultancy Ltd., based at Ebene, he will, for the benefit of the House, obtain from the Bank of Mauritius and the Financial Services Commission, information as to -

- (a) if an inquiry has been carried out thereinto, indicating the outcome thereof, and
- (b) the measures that the Bank and the Commission are envisaging to take to prevent the recurrence of such cases.

**Reply:** With your permission and for the benefit of the House I would wish to provide a chronology of the events that led to the unraveling of the scam and the arrest of the persons involved.

I am informed that in April 2012, the Financial Intelligence Unit (FIU) received information relating to suspicious activity involving a foreign national resident in Mauritius. In the subsequent intelligence gathering, it transpired that the source of funds was legitimate and there was no indication of wrongdoing by the foreign national who also had no adverse record. Accordingly no further action was deemed necessary at that time by FIU

In July 2012, additional information on suspicious activity involving a Mauritian citizen was reported to the FIU. Although, the intelligence gathering found no indication of wrongdoing, the FIU noted that the same company was the recipient of funds as in the April report. Consequently, the FIU initiated a financial investigative analysis to find out more about the company.

The FIU received four further reports of suspicious activity involving the same company in September and October 2012, whilst the investigative analysis was ongoing.

In November 2012, the Financial Services Commission (FSC) conducted a sensitization and consumer education campaign including the use of video clips. The purpose was to alert consumers that they need to be careful in investing their money and should ensure that companies they deal with are duly licensed by the FSC or the Bank of Mauritius. Moreover, the public was also encouraged to report any suspected case either to the FSC, the Bank of Mauritius or the Police.

On 21 November 2012, the Bank of Mauritius received an anonymous letter alleging that several companies were offering loans and attracting investors through a high rate of return.

The November consumer education campaign initiated by FSC may have triggered the anonymous letter of 21 November 2012 to the Bank of Mauritius. In response, it started inquiring on the company WhiteDot International Consultancy Ltd, formerly known as ProfameGnius Co Ltd. The Bank of Mauritius also looked into reports on some other companies mentioned in the anonymous letter..

Following its own review, the Bank of Mauritius referred the matter to the Police for further investigation on 31 December 2012.

By early January 2013 the FIU had obtained the required information from domestic and foreign sources to be in a position to share reliable information with the police which is in line with its mandate to collect intelligence and to pass this on to the relevant enforcement agencies such as the Police, ICAC, Bank of Mauritius, FSC and the Asset Recovery Unit for investigation and necessary action.

On 16 January 2013, the Bank of Mauritius wrote to all banks to collect information on the banking transactions of the companies referenced in the 21 November anonymous letter.

During the month of January 2013, the FSC received several phone calls on the deposit taking activities carried by WhiteDot International Consultancy Ltd. The FSC initiated its information gathering exercise in February 2013 in order to ascertain as to whether Whitedot is conducting a financial activity, given that the Company is not licensed by the FSC and no information pertaining to the Company was available.

On 25 February 2013, following a coordination meeting between the Bank of Mauritius and FSC, each institution issued a communiqué to warn the public regarding unlicensed companies offering unrealistic rates of return.

Several queries were then received by the Bank of Mauritius on the said company which was illegally accepting investment/ deposits from the public. The information was conveyed to the Commissioner of Police on 20 March 2013 for investigation.

On the other hand further information was sought by FSC from the company in early March and based on information received, an investigation on the premises of the company was scheduled but had to be put on hold following developments including press reports on the activities of the Company.

On 29 March 2013, the Enforcement Authority under the DPP held a Task Force meeting chaired by the DPP to share information with a view to act rapidly and accelerate the investigations as well as to avoid duplication of work. The representatives of the Bank of Mauritius, the Registrar of Companies, the FIU, the Police, ICAC and MRA attended the meeting. On the same day, the Enforcement Authority obtained one Restraining order to freeze assets of the suspects involved in White Dot case. I am informed that based on information received, the bank accounts and immovable properties of the company as well as those of its shareholders and directors have been frozen.

I am also informed by the Commissioner of Police that as at 8 April 2013, 10 persons have been arrested and detained in connection with the White Dot International Consultancy Ltd. During police enquiry, it has been found that 14 companies are involved. I am further informed that to date, statements have been given to Police by some 400 alleged victims.

The enquiry is ongoing and there may be further action by the police and other competent institutions. In addition, foreign expert from friendly countries is being sought to assist the Police in its investigations.

The present system has worked to identify and stop serious Ponzi schemes with a securing of assets and arrests. Moreover, whilst the necessary information gathering was taking place to enable such action, both the Bank of Mauritius and the FSC took steps to alert and warn the public. No society is able to protect itself from all criminal activities and prevent criminality. However, we can take steps to reduce the risks, increase the penalties and alert the public on precautions it should take. Also, institutions need to improve their coordination and work on accelerating their information gathering and the time it takes to build up a case for action. At the same time, we need to be careful to keep the proper checks and balances.

Both the Bank of Mauritius and the Financial Services Commission are looking at ways to further enhance their programmes to educate the “consumers of financial services”. This may involve warnings that financial institutions will have to provide their customers on the risks involved in each proposed investment when returns are significantly higher than average.

Another area for improvement involves faster, more effective and more informal sharing of information. Whilst several formal coordination committees and task forces have been set up, there is too much reliance on these for sharing information and the process is accordingly slower than necessary and

too formal for unverified but useful information to circulate. It should become good practice for the various institutions to informally share with each other the cases they are working on at an early stage before evidence of wrongdoing has been found but after there seems to be a *prima facie* case.

We will reinforce the legislation if need be to increase the powers of the Bank of Mauritius and the FSC to deal with such cases and to increase the penalties. We will look into any possible regulatory gaps and plug any loopholes.

International organisations like the OECD, the FATF, the IMF and the World Bank recognize that considerable efforts have been made by Mauritius to enhance its standing as an international financial services centre of substance and integrity and comply with internationally accepted norms and standards and codes of conduct. The classification of Mauritius by the OECD in its white list of clean, transparent, cooperative and compliant jurisdictions bears testimony to this recognition.

In addition to adhering to the OECD and other international standards, we have been drawing on the Financial Sector Assessment Programme (FSAP) reviews to improve our regulatory framework. This has earned us ratings by the IMF and the World Bank that are comparable to many high income countries.

We have spared no effort to continue improving the mode of operation of our Financial Services sector. Operators have sometimes complained that the Mauritius Jurisdiction is overregulated. Despite these complaints however we will continue do whatever it takes to ensure that Mauritius retains its good repute as a sound, clean, compliant and credible jurisdiction.

### **CARROTS - IMPORTATION**

**(No. B/104) Mrs F. Labelle (Third Member for Vacoas & Floreal)** asked the Minister of Agro-Industry and Food Security whether, in regard to carrots, he will state the quantity thereof imported since January to March 2013, indicating if same are being sold through auction and, if so, indicate if his Ministry proposes to prevent such practice.

**Reply:** Following the torrential rainfall on 12 and 13 February 2013, 170.2 tonnes of carrots have been imported by 21 importers from the last week of February to 31 March 2013.

I wish to inform the House that with a view to protecting local producers, two main conditions were attached to the Plant Import Permit issued to the importers, namely -

- (i) the consignment of fresh vegetables should not reach the country after 31 March 2013, and
- (ii) the imported vegetables should not be put on sale on auction markets.

It was reported to my Ministry that imported carrots were being traded on the auction market of Vacoas on 21 March 2013. The National Plant Protection Office of my Ministry immediately informed the importers who had been granted a Plant Import Permit that those who were selling on the auction market were in breach of the undertaking signed by them and that appropriate action would be taken against them. The Agricultural Research and Extension Unit of my Ministry carried out a site visit on the same date and found imported carrots on lorries in the premises of the market but not being traded through auction.

Moreover, my Ministry has solicited the collaboration of the City Council of Port Louis, the Municipal Council of Vacoas-Phoenix and the District Council of Flacq to ensure that no imported fresh vegetable is traded on the auction market. My Ministry is following up the matter with the local authorities concerned.

Indeed, my Ministry is envisaging to disqualify any importers concerned and hence debar them for a period of two years in the event importation of vegetables is being exceptionally authorised following any natural disaster.

#### **ANSE COURTOIS, PAILLES - INHABITANTS - RELOCATION**

**(No. B/105) Mrs A. Navarre-Marie (First Member for GRNW & Port Louis West)** asked the Minister of Housing and Lands whether, in regard the flash floods of Saturday 30 March 2013, he will state if consideration will be given for a plot of State land to be identified for the relocation of the inhabitants of Anse Courtois, in Pailles, who have been victims thereof.

**Reply:** I wish to point out, in the first instance, that I have personally visited some of the victims of the flash floods in the region of GRNW and Pailles. Site visits have also been carried out by officers of my Ministry and it has been observed that the houses of twelve families living at Anse Courtois, Pailles have been flooded. These families are living in corrugated iron sheet houses on private land found along the bank of Saint Louis Stream No 2. They are all tenants. Some of the houses are located less than 16 metres from the course of the stream.

The families may apply to my Ministry for building site leases.

#### **CPE - FAILURES - PRE VOCATIONAL STREAM**

**(No. B/106) Mr S. Obegadoo (Third Member for Curepipe & Midlands)** asked the Minister of Education and Human Resources whether, in regard to the new policy to encourage students having

failed the Certificate of Primary Education examinations at their first attempt to join the prevocational stream at secondary level, he will state the -

- (a) rationale thereof;
- (b) number of students concerned therewith, indicating the number thereof which have opted for the prevocational stream;
- (c) implications for the repeaters for the Certificate of Primary Education examinations in primary schooling, and
- (d) consequences for the prevocational sector of secondary education.

*(Withdrawn)*

#### **BAIE DU CAP - BUS SHELTER**

**(No. A/21) Mrs J. Radegonde-Haines (Fourth Member for Savanne & Black River)** asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to the proposed construction of a bus shelter going east, in the village of Baie du Cap, in Constituency No. 14, Savanne and Black River, in the vicinity of the St. François d'Assise Primary School and the church, he will state where matters stand.

**Reply:** A contract has already been awarded by the Road Development Authority to its zonal contractor, Transinvest. Works will start shortly.

#### **RIVIÈRE DES GALETS & CAMP CHARLOT - CHILDREN PLAYGROUND**

**(No. A/22) Mrs J. Radegonde-Haines (Fourth Member for Savanne & Black River)** asked the Minister of Local Government and Outer Islands whether he is aware that there is no children playground in Rivière des Galets and Camp Charlot and, if so, will he state if consideration will be given for the construction thereof thereat.

**Reply:** I am informed by the District Council of Savanne that presently there are no children playground in Rivière des Galets and Camp Charlot.

I am informed that this matter will be referred to the Village Council of Chemin Grenier for its consideration.

#### **PETITE RIVIERE – TRAFFIC LIGHTS**



(No. A/23) **Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière)** asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to Platform at Petite Rivière, he will state if he has received requests for the installation of traffic lights thereat and, if so, indicate if consideration will be given thereto and if not, why not.

**Reply:** A request for installation of traffic lights at this location has been received from the Black River District Council.

A site visit has revealed that footpaths exist on both sides of this main road (Black River Road A3). A pedestrian mode rail also already exists for safe pedestrian crossing and also acts as a speed reducing device.

Notwithstanding the existing traffic management measures the Traffic Management and Road Safety Unit has been requested to look into the possibility of providing traffic lights at this locus.

#### **NATIONAL EDUCATION COUNSELLING SERVICE – EDUCATIONAL PSYCHOLOGISTS**

(No. A/24) **Mrs L. Ribot (Third Member for Stanley & Rose Hill)** asked the Minister of Education and Human Resources whether, in regard to the National Education Counselling Service of his Ministry, he will state the number of educational psychologists attached thereto and table information as to -

- (a) their respective qualifications, and
- (b) the cluster of schools to which each one of them is attached.

**Reply:** I am informed that 14 Educational Psychologists are attached to the National Educational Counselling Service (excluding one who has been assigned the duties of Senior Educational Psychologist from 16 August 2012 to end of April 2013 and one appointed Clinical Psychologist in a temporary capacity in the Ministry of Health and Quality of Life).

I am tabling a list of the 14 Educational Psychologists together with their qualifications and the cluster of schools to which they are attached.

#### **MONTAGNE LONGUE - CREMATORIUM**

**(No. A/25) Mr G. Lesjongard (Second Member for Port Louis North & Montagne Longue)** asked the Minister of Local Government and Outer Islands whether, in regard to Montagne Longue, he will state where matters stand as to the proposed construction of a new crematorium thereat.

**Reply:** I am informed by the District Council of Pamplemousses that the cremation ground at Long Mountain has had to be pulled down as it was affected by the new Terre Rouge/Verdun Road.

I am further informed that a new site has not yet been finalised for the construction of a new cremation ground and all cremations are being carried out on the ground belonging to the Panray Family at Boulingrin.

### **CORPORATE SOCIAL RESPONSIBILITY - BENEFICIARIES**

**(No. A/28) Mr R. Uteem (Second Member for Port Louis South & Port Louis Central)** asked the Minister of Social Integration and Economic Empowerment whether, in regard to Corporate Social Responsibility, he will, for the benefit of the House, obtain from the National Empowerment Foundation, information as to the amount of money disbursed therefrom, since 2010 to date, indicating the -

- (a) name of the beneficiaries thereof, and
- (b) purpose therefor.

**Reply:** The information in respect of amount disbursed since 2010 to date under the Corporate Social Responsibility, the purpose thereof as well as the name of beneficiaries, has been placed in the Library.

### **ASSESSMENT REVIEW COMMITTEE - CASES**

**(No. A/29) Mr R. Uteem (Second Member for Port Louis South & Port Louis Central)** asked the Vice-Prime Minister, Minister of Finance and Economic Development whether, in regard to the Assessment Review Committee, he will, for the benefit of the House, obtain from the Committee, information as to the total number of cases pending thereat, indicating -

- (a) the number thereof which -
  - (i) are awaiting hearing, and
  - (ii) have been heard and are awaiting judgment, and

(b) in each case, the amount of money in dispute.

**Reply:** With regard to the information requested, I am informed by the Assessment Review Committee (ARC), the Mauritius Revenue Authority and the Registrar-General's Department that the status as at end March 2013 was as follows -

Cases at ARC	Mauritius Revenue Authority		Registrar-General's Department		Total	
	Number	Amount (Rs)	Number	Amount (Rs)	Number	Amount (Rs)
(a) lodged and awaiting hearing	752	2.84 billion	1,708	119 million	2,460	2.96 billion
(b) awaiting judgment	104	146 million	49	9 million	153	155 million
<b>Total</b>	<b>856</b>	<b>2.98 billion</b>	<b>1,757</b>	<b>128 million</b>	<b>2,613</b>	<b>3.11 billion</b>

It may be noted that with regard to the -

- (a) 2,460 cases lodged and awaiting hearing -
  - i. 130 cases have already been convened for Pro-Forma Meeting
  - ii. 1,209 cases have already been called Pro Forma but not yet fixed for Hearing
  - iii. 521 cases have already been fixed for Hearing
  - iv. 45 cases have been heard but not completed; and
  - v. 555 cases have not yet been processed.
- (b) 104 cases relating to MRA and awaiting judgment -
  - i. 86 cases relate to the same issue

- ii. 4 other cases relate to the same issue

### **PLACE D'ARMES – DRAINAGE SYSTEM**

(No. A/30) Mr P. Jhugroo (First Member for Mahebourg & Plaine Magnien) asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to the Motorway M1, near the Place d'Armes, in Port Louis, he will state if he has been informed of water accumulation thereat during heavy rainfalls and that vehicles encounter difficulties at that juncture and, if so, will he, for the benefit of the House, obtain from the Road Development Authority, information as to if remedial measures will be taken, including the setting up of an adequate drainage system thereat.

**Reply:** Water accumulation was observed at Place d'Armes during the heavy downpour recorded on 13 February 2013. There has been no accumulation of such an extent before.

Being given that the outlet of the drainage for the Port Louis Business District is at this locus, and considering the major developments in that zone coupled with climate change which may result in more frequent floods, the Road Development Authority and the NDU have commissioned a joint study for the whole catchment area.

The drainage network will be upgraded depending on the outcome of the study.

### **PLACE D'ARMES - BOLLARDS & TREES**

(No. A/31) Mr P. Jhugroo (First Member for Mahebourg & Plaine Magnien) asked the Minister of Local Government and Outer Islands whether, in regard to the A1 road lying at the Place d'Armes, in Port Louis, near the taxi stand, he will, for the benefit of the House, obtain from the Municipal Council of Port Louis, information as to if the -

- (a) bollards found at the two green spaces are damaged, outdated and contain wastes therein and, if so, indicate if consideration will be given for the replacement thereof, and
- (b) trees found at its junction between the Royal Road, opposite the Government House, are overgrown, thus hindering clear capture by the CCTV Surveillance System and street lighting and, if so, indicate if remedial measures will be taken.

**Reply:** I am informed by the Municipal City Council of Port Louis that the bollards found at the taxi stand at Place d'Armes, Port Louis, in the two green spaces are damaged and need to be replaced.

I am informed that the Council is not in a position at this stage to undertake these works estimated at Rs1 m. due to financial constraints and same will be implemented once funds are available.

As regards lopping of overgrown trees at the junction between the Royal Road opposite the Government House, I am informed that these will be carried out by next week.

### **STRAY DOGS - CAPTURE**

**(No. A/32) Mr A. Gungah (First Member for Grand' Baie & Poudre d'Or)** asked the Minister of Agro-Industry and Food Security whether, in regard to stray dogs, he will, for the benefit of the House, obtain from the Mauritius Society for the Prevention of Cruelty to Animals, information as to the number of vehicles available for the capture thereof, indicating the -

- (a) number thereof captured, since 2011 to date, and
- (b) if additional measures will be taken for the capturing thereof in public places and on the beaches.

**Reply:** The Mauritius Society for the Prevention of Cruelty to Animals (MSPCA) has a fleet of 7 vans for dog catching, to attend to complaints and dog rescue.

Dogs captured since 2011 to date -

	<b>Number of dogs captured</b>
2011	11,465
2012	17,162
2013(As at 31 March)	1,158

The MSPCA do give priorities to public places, beaches as well as hospitals for dog control. Besides regular patrol, traps are also placed for an effective dog control exercise.

In addition, sensitisation campaigns are held in schools and different regions around the island on dog caring and responsibilities of dog owners.

### **JOHN KENNEDY ROAD, VACOAS - TRAFFIC PROBLEMS**

(No. A/33) Mr N. Bodha (First Member for Vacoas & Floreal) asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether he is aware of traffic problems occurring at the junction of the John Kennedy Road, at the level of the Reunion Government School, in Vacoas, and if so, will he state the measures that will be taken, if any, in relation thereto.

**Reply:** This Ministry is aware of the traffic problems at the junction of John Kennedy Road near Reunion Government School. The problems observed are similar to those that normally occur during peak timings at every school. The following range of road safety and traffic management solutions have already been implemented near the school -

- a signalised pedestrian crossing along John Kennedy School adjoining the school;
- double yellow lines, fronting the school, to an extent of 40 metres along Cantin Road, and
- restricted one way traffic along Cantin Road towards John Kennedy Street during school hours.

Moreover, to minimise the exposure of school children to traffic and to improve fluidity along Cantin Road and subsequently at its junction with John Kennedy Street, the Traffic Management and Road Safety Unit has recommended the construction of 'lay-by/drop in' area in the school premises. This facility will be used for the safe alighting and embarking of school children whilst reducing the corresponding traffic delay.

### **NATIONAL SPORTS FEDERATIONS - AUDITOR'S REPORT**

(No. A/34) Mr F. Quirin (Third Member for Beau Bassin & Petite Rivière) asked the Minister of Youth and Sports whether, in regard to the National Sports Federations, he will, for the benefit of the House, obtain and table copy of the Auditor's Report for financial year 2012, in relation to each one of them.

**Reply:** In accordance with section 9 (3) of the Sports Act, Sports Federations are required to submit to the Minister an Annual Report on their financial affairs not later than one month after the date of approval of the report by their National General Assembly.

Section 6 of the third schedule of the Act also provides that Sports Federations should hold their Annual General Assembly not later than 3 months after the end of the financial year.

Sports Federations have, therefore, as at date, not submitted any Auditor's report for the financial year 2012.

**MITD - DIPLOMA IN CIVIL ENGINEERING & DIPLOMA IN MECHANICAL  
ENGINEERING - EXAMINATIONS**

**(No. A/35) Mr M. Seeruttun (Second Member for Vieux Grand Port & Rose Belle)** asked the Minister of Education and Human Resources whether, in regard to the part-time courses for Diploma in Civil Engineering and Diploma in Mechanical Engineering respectively, he will, for the benefit of the House, obtain from the Mauritius Institute of Training and Development, information as to if the results of the examinations conducted on 5 December 2012 have been proclaimed and, if not, why not, indicating when same will be proclaimed.

**Reply:** I am informed by the Mauritius Institute of Training and Development (MITD) that the Institute offers the National Diploma in Applied Mechanical and Electrical Engineering and the National Diploma in Civil Engineering through both the full-time and part-time modes. Each course consists of 20 modules.

For the part-time mode, the Diploma course is spread over three years. There are only three modules per semester for part-time trainees. These part-time trainees are in employment.

The trainees being referred to in the Parliamentary Question took the examinations for the last four modules as follows -

(a) National Diploma in Applied Mechanical and Electrical Engineering -

<u>MODULE</u>	<u>DATE OF EXAMINATION</u>
(i) Air Conditioning and Refrigeration	17 November 2012
(ii) Utilization of Electrical Engineering	24 November 2012
(iii) Electrical Power	01 December 2012
(iv) Business Management Techniques	16 March 2013

## (c) National Diploma in Civil Engineering -

<u>MODULE</u>	<u>DATE OF EXAMINATION</u>
(i) Contract Law, Administration Process and Contractual Procedures	17 November 2012
(ii) Estimation and Contract Documentation	24 November 2012
(iii) Site Management	01 December 2012
(iv) Public Health Engineering	16 March 2013

The modules (i) to (iii) for the above Diploma Courses were taught during the period July 2012 to November 2012 and examinations were completed in November/December 2012. Modules (iv) were taught from January 2013 to March 2013 and the examinations were held on 16 March 2013.

I am informed by the MITD that a meeting of the Award Committee to validate the results has been fixed for Friday 05 April 2013.

Arrangements are being made for the results to be proclaimed on Monday 08 April 2013. However, these trainees are required to submit the final year project by end April 2013 and satisfy the examiners before being awarded the Diplomas.

**PRB 2013 - AMBASSADORS, HIGH COMMISSIONERS & ECONOMIC AND TRADE  
ADVISERS - SALARIES AND ALLOWANCES**

(No. A/36) Mr M. Seeruttun (Second Member for Vieux Grand Port & Rose Belle) asked the Minister of Foreign Affairs, Regional Integration and International Trade whether, in regard to the Ambassadors, the High Commissioners and the Economic and Trade Advisers, he will state the new salaries and allowances drawn by them and the other fringe benefits to which they are entitled, following the publication of the Pay Research Bureau Report 2013.

**Reply:** The information has been placed in the Library.



### **AIL DORÉ STREET, PORT LOUIS - ROAD HUMPS**

**(No. A/37) Mr A. Ameer Meea (First Member for Port Louis Maritime & Port Louis East)** asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether he is aware of vehicle speeding, at the level of the Zam Zam Mosque along the Ail Doré Street, in Port Louis, and if so, will he state if consideration will be given for the setting up of a road hump thereat.

**Reply:** Three Road Humps have already been provided on Ail Dore St to curb down speeding tendencies. The last hump is located at a distance of only 50m from the Zam Zam Mosque. The provision of additional humps, under present conditions is not justified. However, if road environment and traffic conditions change drastically and result in a deterioration in road safety, the Traffic Management and Road Safety Unit will implement remedial measures as appropriate.

### **IMPASSE FELIX BARBE, ROCHE BOIS - SEWERAGE SYSTEM**

**(No. A/38) Mr A. Ameer Meea (First Member for Port Louis Maritime & Port Louis East)** asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the Impasse Felix Barbe at Cocoterie Road, in Roche Bois, he will, for the benefit of the House, obtain from the Wastewater Management Authority, information as to if consideration will be given for the provision of sewerage system connection to the inhabitants thereof and, if so, when and, if not, why not.

**Reply:** I am informed that the region surrounding Cocoterie Road including Impasse Felix Barbe is already sewered except for one 'Impasse' adjoining Impasse Felix Barbe. I am further informed that, following complaints received from the inhabitants of that 'Impasse', the Wastewater Management Authority carried out a survey on 06 March 2013. The 'Impasse' can be connected to the sewerage network through an extension of the existing sewer line by approximately 185 m. However, the extension would need to pass through private properties and WMA is initiating action to seek the necessary way leaves.

### **PORT LOUIS FIRE STATION – RELOCATION**

**(No. A/39) Mr D. Nagalingum (Second Member for Stanley & Rose Hill)** asked the Minister of Local Government and Outer Islands whether, in regard to the proposed relocation of the Port Louis Fire Station and of the Head Office of the Government Fire Services, he will, for the benefit of the House, obtain from the Fire Services, information as to where matters stand.

**Reply:** I am informed that a new request has been made to the Project Plan Committee to reconsider the project “New Fire Station at Colline Monneron, Port-Louis cum Main Fire Station/Divisional Fire Station for Port-Louis area.

It is to be noted that the Project Plan Committee had recommended in its Third Report dated 24 June 2010, that another site be identified, other than the site proposed at Colline Monneron.

Subsequently, the Fire Services Department and my Ministry had identified two sites namely the ex-Sea Training School at Victoria Square, Port-Louis and Roche Bois.

The site of Roche Bois has not been recommended by the Road Development Authority due to traffic hazards and the fact that access would have been on the roundabout, whilst the Ministry of Public Infrastructure, National Development Unit, Land Transport and Shipping (Land Transport and Shipping Division) has informed that it has a project under consideration on the ex-Sea Training School site.

Therefore, again, a proposal for relocating the existing Port-Louis Fire Station to Colline Monneron has been made to the Project Plan Committee on 16 November 2012. The Project Plan Committee has on 18 March 2013 requested -

- (i) for an updated cost estimate for the project;
- (ii) a feasibility study to be undertaken, and
- (iii) that a new Project Request Form be submitted to it.

On 19 March 2013, my Ministry has requested the Ministry of Public Infrastructure, National Development Unit, Land Transport and Shipping (Public Infrastructure Division) to revise the cost estimate of the project and conduct a feasibility study.

### **MONTAGNE BLANCHE, GOODLANDS AND ROSE BELLE - FIRE STATIONS - CONSTRUCTION**

(No. A/40) Mr D. Nagalingum (Second Member for Stanley & Rose Hill) asked the Minister of Local Government and Outer Islands whether, in regard to the proposed construction of new fire stations in Montagne Blanche, Goodlands and Rose Belle, he will, for the benefit of the House, obtain from the Government Fire Services, information as to where matters stand.

**Reply:** I am informed that for the proposed construction of new Fire Stations at -

- (i) Montagne Blanche

The project has been scheduled for implementation in years 2014-2015 as per the Government Programme 2012-2015. The Ministry of Public Infrastructure, National Development Unit, Land Transport and Shipping (Public Infrastructure Division) has informed that once the revised preliminary design for Rose Belle Fire Station is approved, the same design might be considered for the Montagne Blanche Fire Station. However, no funds have been earmarked for the project yet.

(ii) Goodlands

The topographical plan for the site has been forwarded to the Ministry of Public Infrastructure, National Development Unit, Land Transport and Shipping (Public Infrastructure Division) for the latter to proceed with the design of draft plan for the project. The Ministry of Public Infrastructure, National Development Unit, Land Transport and Shipping (Public Infrastructure Division) has informed that once the revised preliminary design for Rose Belle Fire Station is approved, the same design might be considered for the Goodlands Fire Station. However, no funds have been earmarked for the project yet.

(iii) Rose Belle

The Ministry of Public Infrastructure has informed on 12 February 2013 that the design for the new Fire Station at Rose Belle was being reviewed in light of revised site plan submitted by the Ministry of Housing and Lands. However, no funds have been earmarked for the project.

#### **MORCELLEMENT POUSSON, AT LA MARIE, IN VACOAS - TRAFFIC MANAGEMENT**

**(No. A/41) Mrs F. Labelle (Third Member for Vacoas & Floreal)** asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to a petition sent by the inhabitants of Morcellement Pousson, at La Marie, in Vacoas, and the site visit effected by officers of the Road Development Authority, he will, for the benefit of the House, obtain from the Authority, information as to the recommendations thereof, indicating the actions taken, if any, to alleviate traffic management and road safety problems thereat.

**Reply:** Following a petition received from the inhabitants of Morcellement Pousson, a site visit was undertaken by the Traffic Management and Road Safety Unit to assess traffic management and road safety issues at the locus. The main concern was a problematic stretch of straight road alignment of

approximately 200 meters whereby the local inhabitants were alarmed with the high speed of vehicular movements.

Following the visit, it has been recommended that in order to improve road safety, the speed limit at the locus be set at 40 kmph.

A detailed survey will be undertaken by the Traffic Management and Road Safety Unit to implement the new traffic signage scheme at the earliest.

### **POTATO SEEDS (NON-CERTIFIED) - CULTIVATION**

**(No. A/42) Mrs F. Labelle (Third Member for Vacoas & Floreal)** asked the Minister of Agro-Industry and Food Security whether he is aware that non-certified potato seeds are being planted and, if so, will he state the estimated quantity thereof, indicating if Government proposes to take measures to ensure that only certified potato seeds are cultivated.

**Reply:** I have been informed by the Agricultural Research and Extension Unit (AREU) that some planters have recently been using uncertified potato seeds for potato cultivation although this is not the recommended practice. AREU is currently carrying out an island wide survey to assess the situation and it is only when this exercise is completed that we will have an idea of the quantity of non-certified potato seeds that are being planted.

Imported Seed Potatoes is a certified seed and a controlled product under the Second Schedule of the Mauritius Agricultural Marketing (Controlled Products) Regulations 1971. However, local potato seeds are uncertified and not a controlled product.

Given that uncertified potato seeds may be a source of bacterial and viral diseases, my Ministry is working on a Seeds Bill whereby the registration, production, trade, importation, exportation, certification and sale of seeds will be regulated. This Bill is in its final drafting stage and will be shortly introduced into the National Assembly during this session. Moreover, planters are being continuously sensitised on the use of certified potato seeds for plantation.

### **WOOTON - PEDESTRIAN FLYOVER**

**(No. A/43) Mr S. Obeegadoo (Third Member for Curepipe & Midlands)** asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether, in regard to the proposed construction of a pedestrian flyover across the motorway near the Wooton roundabout, he will state where matters stand.

**Reply:** On 7 August 2012, the Road Development Authority awarded the contract for the design and construction of two footbridges along Motorway M1 near the roundabout, in the vicinity of the Doha Secondary School, to EDCC Company Ltd.

Order to commence works was issued to the contractor on 05 September 2012. The contract duration is 300 days.

However, adverse weather conditions have hampered the progress of works and in January 2013, the contractor came across CEB HT underground cables which inhibited the foundation works.

The relocation of the underground CEB cables is currently underway. The project is scheduled for completion in July 2013.

#### **PRIMARY EDUCATION - ENROLMENT**

**(No. A/44) Mr S. Obeegadoo (Third Member for Curepipe & Midlands)** asked the Minister of Education and Human Resources whether he will state the latest available figures relating to the -

- (a) net enrolment ratio for children aged 3-5;
- (b) net enrolment ration for children aged 5-12;
- (c) completion rate in primary education;
- (d) number of out-of-school children in the 5-15 age group.

**Reply:** The Net Enrolment Ratio (NER) is the number of pupils enrolled in an age group, expressed as a percentage of the population in the same age-group.

- (a) Net Enrolment ratio for children aged 3-5 is as follows –

<b>Year</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
NER	95.0	96.2	93

The reduction in NER from 2011 to 2012 is explained by the relatively higher decrease in the number of pupils enrolled in 2012 (-7.7%) as compared to the percentage decrease in population in that age group (-4.5%).

(b) Net Enrolment ratio for children aged 5 – 12 is as follows –

<b>Year</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
NER	96.4	97.0	97.9

(c) Completion rate in primary education is calculated as the ratio of the number of students successfully completing the last year of primary school (standard VI) in a given year to the total number of children aged 11 years in the population and is as follows –

<b>Year</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Completion rate in primary education	73.8	71.5	74.6

(d) Number of out of school children in the 5 – 15 age group is as follows –

<b>Year</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Number of out of school children	11,387	10,702	9,286

### **SOREZE - FORCES VIVES - REPRESENTATIONS**

**(No. A/45) Mrs A. Navarre-Marie (First Member for GRNW & Port Louis West)** asked the Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping whether he will state if he has received representations from the *Forces Vives* of Sorèze, in regard to problems related to the construction of the ring road thereat, and if so, indicate the measures he proposes to take in relation thereto, if any.

**Reply:** The *Forces Vives* of Sorèze requested for the provision of a footbridge at Sorèze roundabout along the Ring Road. However, in view of the very rare pedestrian movement, the request was not entertained by the Road Development Authority. Nevertheless, the Traffic Management and Road Safety Unit is carrying out a safety audit of the Ring Road and, in the course of the exercise, it will look into the possibility of providing an at grade pedestrian crossing or any other safe crossing system for the inhabitants of the region, at an appropriate location.